

**DUTIES LEGISLATION AMENDMENT BILL 2013**

*Consideration in Detail*

Resumed from 13 June.

Debate was adjourned after clause 11 had been agreed to.

**Clause 12: Chapter 2 Part 5 Division 5 inserted —**

**Ms R. SAFFIOTI:** My question relates to the definition of “franchise arrangement”. How is duty applied to the sale of a franchise from one owner to another?

**Dr M.D. NAHAN:** Thank you for the question. There are two scenarios. One is the creation of a new franchise arrangement from the originator to a new franchisee, and that is not dutiable. The sale of an existing franchise arrangement from franchise owner to another is dutiable. The origination of the franchise is not dutiable. The sale or transfer of an existing franchise arrangement is dutiable.

**Ms R. SAFFIOTI:** If I were to purchase a Brumbies bakery, that would not be dutiable, but if I were to sell that bakery to someone else, that is dutiable.

**Dr M.D. NAHAN:** That is correct. The sale from the head franchise of a new bakery would not incur duty, but if I owned it and sold it, it would be dutiable.

**Mr C.J. TALLENTIRE:** I am curious about the definition of the goodwill of a business. This came up in debate on the second reading of the bill when someone on the member’s side raised the point that it would not be in anyone’s interest to undervalue goodwill because it would devalue the overall asset. But would it not be possible for someone to reduce the value of goodwill and transfer that asset to a real asset and perhaps add it to the estimated value of the premises and materials?

**Dr M.D. NAHAN:** With an income tax law, there is a great deal of debate about measuring and the fungibility of assets from a real to a goodwill concept. In this duty scenario, real and non-real are dutiable at the same rate —

**The ACTING SPEAKER (Mr P. Abetz):** Members! Can you keep the conversations down a little to give the minister the opportunity to be heard, thank you.

**Dr M.D. NAHAN:** Under this bill, because the duty in question, both real and non-real, is assessed as duty at the same rate, there is no incentive for substitution. However, if, as was envisaged in this amendment, non-real duty was to be expired, an issue could arise with the incentive to shift from real valuation to non-real. But in this bill, it is not an issue because both are taxed at the same rate.

**Ms R. SAFFIOTI:** Will the minister provide an explanation of how duty is applied to “plant breeder rights”?

**Dr M.D. NAHAN:** When people such as Monsanto invent a new genetically modified crop, it often subcontracts the planting of it to a different firm and charges goodwill or patent right of the plant breeder’s right. It is a non-real asset and, if it sells it, it gets a duty on it. When someone breeds plants, a patent or breeder’s right over them as intellectual property, and if it is transferred to another party, it is dutiable.

**Ms R. SAFFIOTI:** During a briefing I asked for some information on the definition of “Western Australian business”, which was provided, but I was still a bit confused. I asked about how things are measured across borders. I might set up a Brumbies bakery. Regarding intellectual property, given research is carried out across the nation and that Brumbies goodwill applies to a national franchise, how does the Office of State Revenue ascertain what part of non-real goodwill is dutiable in Western Australia?

**Dr M.D. NAHAN:** If the member bought that franchise from the head franchise operator, there would be no duty on it. If the member sold it, it is clearly the head franchise, as part of the franchise does marketing and other activities on a national basis for all the franchises; however, if the member sold her franchise to someone in Western Australia, even though some of the incremental goodwill was generated by the head franchise, it would be dutiable. The total transaction in Western Australia is dutiable.

**Ms R. SAFFIOTI:** To clarify the situation, it does not matter how or where the goodwill may be generated, if it is attached to a business—the real asset—it becomes dutiable.

**Dr M.D. NAHAN:** I think the member is correct. If there is a Brumbies in Inglewood, for instance, and it is sold there, the goodwill estimated in transaction from that store is dutiable in Western Australia, because that is where Inglewood is located. State Revenue does not seek to find out what section of the goodwill is earned from a variety of sources.

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**Mr C.J. TALLENTIRE:** I am interested to know how “restraint of trade arrangement” can be seen as a business enhancement. Are we looking at a situation in which we are protecting businesses from certain forms of trade? If that is the case, what are the policy implications of that?

**Dr M.D. NAHAN:** If a business is bought from, say, a lawyer or a real estate agent, and part of that transaction is that the party that is selling the business agrees not to compete with the person buying the business, which adds value to the business, that is restraint of trade. Again, it is a matter of what someone is willing to pay for the business. Many things enhance the value of the business, among which are real and non-real assets, and that is just one of them. It is very common practice.

**Mr C.J. TALLENTIRE:** Does the minister not see that as a limitation on the right to free trade—the right to open a business where someone wishes to? I know the minister’s views on this; that is, he is very much a free marketeer/ I wonder whether he does not see this as contradictory to his views.

**Dr M.D. NAHAN:** The Australian Competition and Consumer Commission can deal with issues of competition. The examples I gave of lawyers and real estate agents are pretty competitive businesses. In almost every geographic region of Western Australia there are more than a few real estate agents and lawyers operating. If one of them sells their business and says, “I won’t compete with you”, but turns around and pinches all the buyer’s customers who, a week or so ago, were the seller’s customers, that would devalue the business significantly. I do not think it has anything to do with the extent of competition. It is very common; it is legal; and, in the case of the Office of State Revenue, it is real and it exists, it adds value to the business and it needs to be in place.

<014> M/2

**Mr C.J. TALLENTIRE:** Thank you for that response.

Turning it around the other way, I think many members would have heard of cases involving constituents saying that they had bought their business in good faith, imagining that they would not receive undue competition. I am curious to know how this definition actually goes towards helping to protect people, having bought into a franchise—a Chicken Treat franchise or any of those—and then suddenly finding they have a competitor opening up within a very small radius of where they are located.

**Dr M.D. NAHAN:** The member is right; as local members, we hear about those issues all the time and they are real. We had extensive debate on those and associated issues last term, but this is a tax bill—a duties bill. It is not meant to govern arrangements between businesses or protect a pro or anti-competitive action. This is basically collecting a duty on the valuation of the sale of a business in terms of certain aspects of non-real value.

**Ms R. SAFFIOTI:** I assume I can ask this question because I understand that we are still on clause 12.

**The ACTING SPEAKER (Mr P. Abetz):** Yes, we are on clause 12.

**Ms R. SAFFIOTI:** I refer to proposed section 83 on page 11, “Dutiable value of certain business licences required by Commonwealth law”. What does that proposed section refer to and what will be its effect?

**Dr M.D. NAHAN:** I have been advised that it refers to things like broadcasting licences and other licences that the commonwealth require a business to purchase or have that may be of a restrictive nature and give value to the property.

**Ms R. SAFFIOTI:** Is that dutiable under this change?

**Dr M.D. NAHAN:** It is to the extent that it relates to WA. Even though Channel Nine has outlets around Australia including one here—I do not know whether Channel Nine is a business isolated in WA—but that is how it relates. It relates to a licence of a restricted nature. It restricts competition. That therefore has value, and the transaction relating to a business in Western Australia is dutiable.

**Clause put and passed.**

**Clause 13: Section 136 inserted —**

**Ms R. SAFFIOTI:** Again, this proposed section triggered my interest: “Business licences held under Fish Resources Management Act 1994”. Can I have an explanation of what this proposed section refers to? I suspect it is quotas or other sort of fishery management instruments that are applied to commercial fishers in conducting their business.

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**Dr M.D. NAHAN:** It is very common in the fishing industry for a fishing business to have a licence for so many pots, for example, and the fisherman who owns those pots lends them for the season to somebody else. The other person does not own them; the rights to buy and sell those pots remain with the first party. The second party just uses them for the season. Proposed section 136 has arrangements that, subject to the commissioner's decision to assess those at nominal value, imposes a nominal duty on them. It is just accommodating an arrangement that is common to the fishing industry.

**Ms R. SAFFIOTI:** Sorry, I was interrupted and did not catch the last bit. Does there not need to be a sale of that pot? I did not catch what the minister said; can he repeat it? If someone uses that benefit, are they liable to pay duty? How does the Commissioner of State Revenue determine that duty if there is no actual transfer of asset?

**Dr M.D. NAHAN:** Again, it is very common in the fishing industry, which has restrictive licences; in fact, almost all fisheries do in Western Australian. Let us take pots in the cases of lobsters. Party A owns them but lends them or allows party B to use them for the season. The ownership of those pots still lies with A, and B just uses them for the season and gets the value. This bill deals with that arrangement and treats it as the non-transfer of ownership, and, subject to the commissioner's assessment that it is not a transfer of ownership, levies duty at a nominal rate of \$20.

**Mr C.J. TALLENTIRE:** Following up on this issue with the Fish Resources Management Act, given the example of crayfish quotas and the western rock lobster fishery—where we have other fisheries—it would be a licence to access a quota. Those quotas are often defined at a time that I think would be after the purchase of this quota. How would the calculations be made?

**Dr M.D. NAHAN:** It varies by fishery. Sometimes there is an advance of quota to catch so many fish. That is specified in advance. A person with that licence can give another fisherman the rights to catch that quota. If the Commissioner of State Revenue has viewed that it is not a permanent transfer but just a temporary transfer, the same thing applies as applies to the craypots. Some fisheries, as my memory serves me, sometimes do an ex-post assessment of quotas or assess the quotas through the season to see how the harvests are; I think the same arrangements would apply.

**Clause put and passed.**

**Clause 14: Chapter 2 Part 6 Division 4 inserted —**

**Ms R. SAFFIOTI:** I refer to proposed section 147 on page 14. In relation to concessional rates, I ask for an explanation of this change and what impact it will have on attracting duty under the legislation?

**Dr M.D. NAHAN:** There is no change. This goes back to the early operations of the stamp duty act when they started to substantially increase stamp duty on housing. They introduced a concession level. Things changed and they later decided to give special concessions to real estate. At first, they increased the duty rate on real estate and gave different concession rates. The concession rate here is a throwback to pre-changes to real estate. This is a very old one. It was kept on during the 2008 changes because the expectation was that the duty on non-real property would expire, and, rather than go through a process of excising this, there was a decision to keep it. We are doing the same thing. It is a largely redundant concession that has been overwhelmed particularly by concessions on real estate.

**Mr J.R. QUIGLEY:** I refer to clause 14, proposed section 147(1), which states —

A dutiable transaction is a *concessional transaction* for the purposes of this section if the instrument effecting or evidencing it would have been chargeable with duty under the *Stamp Act 1921* Second Schedule item 4(5), if it had been first executed before 1 July 2008.

<015> S/2

If the instrument is signed prior to 1 July 2008, but the terms of the instrument declared that it was not operable until after 1 July 2008 and is, in fact, then not fixed with a date until after 1 July 2008, does it still remain a concessional transaction?

**Dr M.D. NAHAN:** The liability for duty for a transaction is when it is executed. If the execution took place before 1 July 2008, the Stamp Act will apply. If it was executed after the 1 July 2008, then the Duties Act will apply.

**Mr C.J. TALLENTIRE:** Following up on the issue of timing concerns me. As I understand it, the Stamp Act is generally applied to real assets rather than non-real ones. It is not the case with this legislation?

**Dr M.D. NAHAN:** Is that real or non-real?

**Mr C.J. TALLENTIRE:** I refer to all real or non-real.

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**Dr M.D. NAHAN:** That is the case unless it is exempt.

**Mr C.J. TALLENTIRE:** Therefore, thinking of situations in which someone has a contract of offer and acceptance with a settlement date on a property, what would happen if somebody had trouble raising finance and the offer of contract and acceptance being dependant on the purchaser being able to acquire the finance? How would this clause deal with that shifting time line?

**Dr M.D. NAHAN:** Again, I took some time to understand this. I cannot say I understand it fully, but it goes back in history. We used to have a stamp duty act that had a dutiable rate that applied to real and non-real residential properties and businesses. It had one schedule that applied across the board. The then governance decided to substantially increase the dutiable rate and have a different schedule for real estate. In 2008, the government decided to clear it up and move it from the Stamp Act to the Duties Act. At that time, it kept the old concession act. Also during that period, the government gave different, more generous concessions for real estate, including for first home buyers. The real question the member for Gosnells asked is: what happens if someone sells a piece of real estate and there is a transitional arrangement —

**The ACTING SPEAKER (Mr P. Abetz):** Members, can you just keep your voices down if you are having a conversation in the chamber, please.

**Dr M.D. NAHAN:** The duty is payable upon execution when the liability to pay duty arises upon execution. Upon a house's date of sale, sometimes arrangements are made by which someone can get an extended time to pay; that is a different issue.

**Mr J.R. QUIGLEY:** I seek clarification concerning clause 14, proposed section 147(3), which reads —

- (3) If a dutiable transaction is, or is treated as, a concessional transition for the purposes of this section and for the purposes of Division 4A, the taxpayer may choose whether this Division or Division 4A is to apply and the Commissioner, with consent or at the request of the taxpayer, may —
  - (a) treat an application for assessment or reassessment under this Division as an application for assessment or reassessment under Division 4A, in which case this Division no longer applies; or —
  - (b) treat an application for assessment or reassessment under Division 4A as an application for assessment or reassessment under this Division, in which case Division 4A no longer applies.

Why is that?

**Dr M.D. NAHAN:** Again, we have two sets of concessional rates in the Duties Act. One applies specifically to residential real estate; the other concessional rate applies to everything else—businesses and residences under the Stamp Act. The bill allows the purchaser who is liable to duty to choose which concessional rate he or she wants to apply through the transaction. With residential real estate, the other concessional rate is the best for most people.

**Mr J.R. Quigley:** I am sorry, minister; for most people the other concessional rate —

**Dr M.D. NAHAN:** That is best; it gives them the largest discounts. People have a choice. They can accept the concessional rate as listed in proposed section 147 or they can choose the concessional rate in the Duties Act for residential real estate. They can choose. The concessional rate in the Duties Act is generally superior—that is, it has a lower duty rate or a greater concessional rate and that is what people can choose. In fact, if someone were to do the calculations, people would choose proposed section 147 only if the value of the property is \$116 000 or less. The government kept that provision because there are some residential properties out in the rural areas worth less than \$116 000. Therefore, they want people to have the benefit. Concessional rates have been left for people to choose. Most people, of course, given the value of property, would choose the concessional rate. However, being open to the residential real estate and the Duties Act, they can also choose, but they should only do that if the value of the property is \$116 000 or less. If left up to the commissioner, he would choose the concessional rate most beneficial to the payee.

**Mr J.R. QUIGLEY:** I now understand what the minister is saying, but the bill does not say that the default position of the commissioner will be the lower rate, does it? It says that the commissioner “may, with the consent or at the request of the taxpayer” treat the application in a certain way. It does not actually apply the default position. Therefore, a person purchasing a country residence worth less than \$116 000 and who is ignorant of this provision, would not necessarily have the lower rate apply. That is according to the bill. People would have to apply. In other words, they would have to have the wherewithal to apply.

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**Dr M.D. NAHAN:** I have been informed that if people do not have the wherewithal to apply, the commissioner, as a standard policy, applies the better concessional rate on their behalf—or recommends it to them. It does not mandate —

**Mr J.R. Quigley:** That's what I was saying; it doesn't mandate.

**Dr M.D. NAHAN:** It does not mandate. It gives the choice to the payee. The commissioner, if there is some anomaly, as a rule will inform the payee what the lower rate or the more beneficial concessional rate for the payee is.

**Mr J.R. QUIGLEY:** Without casting aspersions on our fellow citizens in the bush who would not be so intellectually aware of this provision, would it not be better for the legislation to not just leave it to the commissioner's discretion, but to have a mandatory provision that if the real estate is less than \$116 000, the commissioner must apply the lower rate; and, if not, why not?

<016> J/4

**Dr M.D. NAHAN:** I am informed that my advisers have never come across an issue of this nature—where some person purchases a house, and this shows the wrong concessional rate, nor any ministerial complaint on this. The commissioner is aware of it; in fact, not too many people would be aware of it. I was not, and therefore my advisers say that there is no evidence to say that people are getting this wrong or that there is a risk of it, and the commissioner acts on their behalf.

**Clause put and passed.**

**Clause 15: Section 277 inserted —**

**Mr C.J. TALLENTIRE:** Clause 15 inserts proposed section 277, which is headed, “Business licences not to be registered etc. unless duty endorsed or instrument lodged”. I am concerned about chicken-and-egg situations—that it might be necessary for someone to acquire a business licence or register a business licence, and they might actually have to have the duty endorsed. It just seems to me that there are possible traps here for people who may want to change the order of events. They could experience difficulties getting their business licences registered.

**Dr M.D. NAHAN:** When one buys a piece of land, one cannot transfer the land unless the duty is paid. This is when the licence is being given over; they have to pay the duty on the licence before they can utilise the licence. It is like many other transactions; the duty is actually required to be paid before they can take possession of that property.

**Clause put and passed.**

**Clauses 16 and 17 put and passed.**

**Clause 18: Schedule 3 Division 6 inserted —**

**Ms R. SAFFIOTI:** Again, I ask what impact this part of the proposed legislation will have. In particular, how many transactions would be caught? For every month that this legislation is not in force, how many transactions will be caught up in the provisional transitional period?

**Dr M.D. NAHAN:** I am advised that it is not possible to predict the transaction pattern of these business sales.

**Ms R. SAFFIOTI:** One thing we have not asked during this debate is: how many transactions are estimated for this particular tax for next year? What is the estimated volume of transactions?

**Dr M.D. NAHAN:** I cannot answer that. The information available to Treasury and the Office of State Revenue does not include forecasts on the basis of numbers of transactions. It would be interesting to find out, if we could look at the average size and availability, but we just do not have that information.

**Mr J.R. QUIGLEY:** I refer to clause 36(2) of proposed schedule 3, division 6, which reads —

- (2) This clause applies to a transaction that —
  - (a) occurs on or after 1 July 2013 and before commencement day; and —

I understand that that is to catch transactions before the commencement day. My understanding is that revenue-raising provisions in legislation usually apply from the date of the announcement of the amendments, not from some date in the future. That means that any transactions that can be rushed through before 30 June 2013 will not be caught by this legislation; it is being held off until 1 July. Could the minister help the house with the public policy consideration for doing this, rather than from the date the legislation is announced or introduced?

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**Dr M.D. NAHAN:** I accept the member's argument. Usually when there is an announcement of a higher tax rate or a new tax, it is announced on the day of commencement to stop people from adjusting their arrangements to minimise tax. This is different because the duty is being applied right now, through 30 June 2013, so this is a continuation of an existing tax. We announced that some time ago, and it already applies, so this is a different arrangement from most. We are continuing an existing tax, not introducing a new tax or a new rate of tax.

**Mr C.J. TALLENTIRE:** If I have understood the minister correctly, he is saying that there is a continuation; but the actual liability—the date that someone would have to pay by—is on commencement day; the day that the legislation comes into effect. Is that right?

**Dr M.D. NAHAN:** If one did a transaction now, one would be liable for payment of the duty—right now, up until 30 June 2013. This provision is because we do not have royal assent before 1 July 2013, so it makes provisional arrangements so that if any transaction takes place between 1 July 2013 and when royal assent is received, it will be dutiable at the time royal assent is received, and they have two months to lodge the transaction at that time.

**Clause put and passed.**

**Title put and passed.**

Leave granted to proceed forthwith to third reading.

*Third Reading*

**DR M.D. NAHAN (Riverton — Minister for Finance)** [3.38 pm]: I move —

That the bill be now read a third time.

**MS R. SAFFIOTI (West Swan)** [3.38 pm]: I want to go over some of the elements of this bill, which has been discussed in great detail through consideration in detail. I want to go over some of the elements of the minister's second reading speech and I want to again make it very clear what this bill will do.

In respect of the debate during consideration in detail, I think it is a real pity that the government did not accept the amendments that the Labor Party put forward. The amendments were really around two main areas: the proposed new name for the bill, and some amendments in relation to the tax cut that is going to be abolished by this government. We actually put forward the idea that after two years, this tax cut would be in force.

<017> C/4

I want to go first to the title of the bill. We put forward a proposal that the bill be titled the “\$527 Million Tax Slug Amendment Bill 2013”. As we said and as was discussed at the time, this more appropriate name for the bill would have worked better for both the Parliament and for the public. The public, on reading the name of the bill, would have been very clear about its real intent. Remember, as we have stated a number of times, this is coming from what is meant to be the small government, pro-small business Liberal Party. This bill indicates that it is more big government and anti-small business. I am utterly disappointed, therefore, that the title put forward by the member for Victoria Park was not accepted by this chamber.

Another key proposal we put forward was to insert a sunset clause, which is one way of describing it, to put a time frame around the bill. As we said, this proposed tax cut was first introduced into this Parliament at the end of 2007. The then Treasurer and former member for Belmont, Hon Eric Ripper, brought into this place at the end of 2007 a bill to abolish transfer duty for non-real business assets. That bill was accepted and made law. In 2009, the then Treasurer and member for Vasse brought into this place legislation to defer the abolition of that tax to 1 July 2013. That was a proposal to defer the abolition of that tax, and this bill proposes to abolish this tax cut altogether. The member for Victoria Park put forward an amendment to the bill to say that this tax would be abolished, not on 1 July 2013 but on 1 July 2015. As we have said, we thought it was very important that some discipline and financial control be instituted over this government. In fact, since we had that discussion in this chamber, some more alarming facts have been spelt out about the government's expenditure behaviour, and I will refer to those later in this speech.

The Minister for Finance—the member for Riverton—made a worthwhile contribution in his second reading remarks, but also highlighted some significant contradictions within the government on this issue. The first contradiction occurred in the Minister for Finance's second reading speech. At one point he said that this tax was not part of the GST agreement, but at another point he said it was. In his second reading speech, he stated that the abolition of this tax was part of the GST agreement. We went through that debate in a bit of detail at the consideration in detail stage. In summary, I think we can say that in the GST agreement made back in 1999 both the state and the commonwealth agreed that this tax be abolished. There were movements around the timing of the abolition as a result of a renegotiation of the agreement and some changes in revenue flows that have occurred

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since 2001. However, we can safely say that this tax was part of the GST agreement and that it was always envisaged it would be abolished.

Another key contradiction is whether an election commitment was given by this government to not increase taxes. I say that clearly there was a commitment. In the small business policy introduced by this government at the March 2013 election, a clear commitment was given to lift the tax burden from small business to free up funds for those businesses. It was a clear commitment made in the government's election policy. Therefore, this \$527 million tax slug is a clear broken promise and a clear contradiction of that election commitment.

There is another contradiction. I do not want to spend too much time on the member for Churchlands—we did spend a little time on him last week—but in his contribution to Parliament, which I welcome, he stated that this bill did not impose a tax increase. We understand that it is a tax increase. That was confirmed by the Minister for Finance in his speech when he said that it is a tax increase.

Another contradiction that was picked up during this debate relates to the application and impact of the GST agreement. As we have always said, the GST agreement was a bad deal for WA. It was a bad deal because more of our revenue would be subject to the Commonwealth Grants Commission. The role of the Commonwealth Grants Commission is to determine the revenue-raising capacity and expenditure needs of each state. The commission has a very complex methodology. I recall when I worked in the state Treasury department that there were basically two people in state Treasury who understood that Commonwealth Grants Commission process in any detail. It is a very complex and unique organisation which, together with the information provided by each state, also uses its own methodology to distribute the GST shares. We have maintained on this side of the chamber that the GST agreement was a bad deal because it gave more revenue for determination to the grants commission.

**The ACTING SPEAKER (Mr P. Abetz):** Member for West Swan, I draw your attention to the fact that this is a third reading speech and not a second reading speech, so it has to be very focused.

**Ms R. SAFFIOTI:** Yes, sure. I am focusing on the comments made by the Minister for Finance in his second reading speech and also on what happened in consideration in detail. Is that fair enough?

**The ACTING SPEAKER:** I just remind you, member for West Swan, that the third reading debate is restricted to the content of the bill; it is not as wide as the debate on the second reading.

**Ms R. SAFFIOTI:** I understand those guidelines.

**The ACTING SPEAKER:** I just encourage you to narrow it down.

**Ms R. SAFFIOTI:** Yes, sure, Mr Acting Speaker. I have very short notes with me and they really concentrate on what happened during that second reading debate and also in consideration in detail.

In that contradiction, the Minister for Finance stated that it is not the federal government or any minister who determines the GST shares; it is the Commonwealth Grants Commission. That again is very different from what we understand the Premier is saying.

I want to raise a couple of other key issues about the debate we have just had. One is that we did not hear as many contributions from government members as I would have liked to hear. I think three or four government members, apart from the Minister for Finance, stood and spoke on this taxation bill. When I was on my feet during the second reading debate there was some interjection from the other side, and I and many of my colleagues invited those Liberal members to stand, make a contribution and support this taxation increase proposed by their side of politics.

<018> P/4

I am disappointed that more government members did not stand up to put on the record what they said through interjections. Some stood and defended this \$527 million tax increase during the debate on this bill, but I am disappointed that more government members in this place did not stand up and defend this tax increase given that they voted for it. It is very important to note that they voted for the tax increase, but they did not stand up to defend it.

I refer to some of the comments made by the Minister for Finance. He gave us a quick history lesson on deficits incurred and surpluses delivered by governments around Australia and in WA. He discussed the financial issues of the Kirner government of Victoria in the 1980s and of the Lawrence government. However, in that history lesson about financial management accountability in this state, he skipped eight years. It is important to fill in those eight years between 1993 and 2001—the Court–Barnett era. The Minister for Finance discussed the deficits that were incurred by other states and by other Premiers, but he skipped over eight important years between 1993 and 2001. The Minister for Finance commented a lot on recurrent deficits and having to borrow for operation expenditure, but he forgot to inform Parliament that over those eight years of the Court–Barnett government from

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1993 to 2001, five deficits were delivered, including four in a row. Those deficits were operating deficits, which in a cruel sense mean that there was borrowing for operating expenditure. While it is not directly translatable, roughly money was borrowed for stationery and everyday expenses. I want the chamber to be aware of those missing eight years. While members may want to reflect on what happened under Kirner in the early 1980s and under Lawrence in the late 1980s, when the minister takes us through a history lesson of financial management in this state, he cannot skip that period from 1993 to 2001. Those eight years demonstrated that the Liberal Party did not manage the finances well and incurred significant operating deficits, which caused problems for the financial management of the state. I wanted to make sure that the chamber did not miss out on that essential bit of history of financial management in this state.

To conclude, this bill ensures that Western Australian business has to pay an extra \$527 million over the next four years. It is \$527 million that business did not expect to have to pay and that was never mentioned during the election campaign. Why have we reached the third reading stage of this bill? It is because this government has not managed the state's finances. On the Thursday after the second reading debate, the Treasurer gave significant information to this chamber. He basically said that the government's entire strategy to manage the finances is broken. We can all recall the Treasurer standing and saying that salaries grew at an incredible rate under Labor and that the Liberal-National government would rein it in. The Treasurer said that he would be directly involved and chair a committee to oversee all enterprise bargaining agreements. As I recall—this is off the top of my head—we have had double-digit expenditure growth under this government. Wages have grown at over eight per cent under this government. Just in those terms it is worthy of comment, but it is an absolute contradiction to what the Treasurer promised. The Treasurer stood in this place and said that he would manage the finances like nobody else ever had. He said that our full-time equivalent positions salary expenditure was out of control. This Treasurer said that he would bring control and discipline to the expenditure of this state, but he has not.

**Mr D.A. Templeman:** He's failed.

**Ms R. SAFFIOTI:** He has failed. As a result, we have seen this bill introduced to claw back \$527 million of extra expenditure. We have seen other bills introduced —

**Mr D.A. Templeman:** The next one does that too.

**Ms R. SAFFIOTI:** The next one on the day sheet claws back more money from WA taxpayers and families to cover up the government's significant financial mismanagement. This bill has become necessary because of the mismanagement of the state's finances. As we on this side have said, this government should have been more accountable and more transparent to the people of WA when it went to the election in March. The idea that its election commitments were fully funded and fully costed is absolutely false, as has been demonstrated by every announcement and media statement by this government since 9 March. The government's commitments were not fully funded and costed and, moreover, this is a clear broken election commitment. The government has promised to free up funds from business in WA so that it can spend, as businesses wanted to. It is ensuring that businesses have fewer funds and pay more tax. It is a clear broken election commitment and the key reason for it is that this government cannot manage its finances.

**MR C.J. TALLENTIRE (Gosnells)** [3.57 pm]: I rise to also voice my opposition to the Duties Legislation Amendment Bill 2013. It is disappointing and surprising to see that the Liberal Party is looking to small business to make up for its budgetary shortfall. As has been said, we know that over the next four years the government has a shortfall of some \$527 million that it wants to make up off the back of business. There are alternatives; it does not have to attack small business. Many small business people make an honest living in their communities and near to their homes through providing services, entrepreneurship, ideas and employment opportunities. Those small business ideas are worthy of being nurtured and not attacked in this way. This is a slight on those businesses. It is very surprising when the government clearly has other options. I can think of one that I have discussed with the minister in the past—the mining exploration incentive scheme. Here is a subsidy to big business that is worth many millions of dollars a year, yet the government wants to continue it and bolster those who are already benefiting from a resources boom. Even though some may argue that the boom is dropping off from its peak, the fact remains that there is still enormous activity for those in our resources sector. Yet the government has made the choice to give an exploration subsidy to those operating in the resources sector and to continue a tax on small businesses. That is a very poor choice and it is very telling.

Some of the details of this legislation really highlight just how much of a hit this will be on the entrepreneurship spirit that we look for in our small businesses. To continue a duty on things such as goodwill strikes me as immensely unfair. Businesses nurture their goodwill and see that as a mark of their success; they are able to generate goodwill and build their client bases.

<019> A/1



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A definition of “goodwill” is provided in clause 12 of the bill. It is clear that people will be hit with that ongoing duty. People went to the election imagining that they will no longer have to face that duty. But the election is now out of the way, and the government has made this poor choice. The government had other options available to it. I have mentioned the exploration incentive scheme. Only recently—a few days ago, in fact—the Minister for Mines and Petroleum said that he would be topping up the funding for that scheme. He said that the scheme will provide co-funding of up to 50 per cent for direct drilling costs; \$150 000 for a multi-hole project and \$400 000 for a single deep hole; and \$30 000 for prospecting projects. It seems that the choice has been made by this government to dole out the dollars to those in the resource sector, while at the same time giving no relief to those in small business. What does that say about this government’s overarching view of the world? Unfortunately, I think it says that this government is interested only in exploiting the mineral wealth of this state. It is not interested in nurturing the entrepreneurial spirit of small business.

To me, that is a great shame. That is not what Western Australians want. Yes, Western Australians want the resources activity that is taking place to continue. But they do not want that to continue to the detriment of other sectors in our society. People like small business. People enjoy being involved in small business. They see it as an opportunity to have a career over which they have control. This government had promised to get rid of this duty burden. However, small businesses will now continue to be stuck with this duty burden. That will mean that people’s ideas and dreams of having a small business in which they can perhaps work from home or near to their home will be shot through and they may have to consider joining the big corporate world and working at the mines. The message that the government is sending to the people of this state is that the only ongoing employment opportunities in this state are in the resource sector, not the small business sector. I do not believe the people of Western Australia want this government to continue to dish out big amounts of money to those in the resource sector yet fail to nurture small business. During consideration in detail, members on this side highlighted the many imposts on businesses that are looking to develop their marketing plans and client base. This government now wants to put an extra duty in the way of those businesses. That is unfair. I therefore restate that I will not be supporting this legislation.

**MR P.C. TINLEY (Willagee)** [4.02 pm]: I have listened intently to the contributions of all members during the second reading debate on the Duties Legislation Amendment Bill, and I have kept my powder dry. That debate was very enlightening, actually, because it gave me a great insight—sitting there quietly and observing and reporting to myself and my colleagues—into the different positions that people take on the imposts that the state decides to deliver upon its business community and upon the drivers of its economy. As has been said by other members, it is worth circling back over some of those views. It was quite odd that the views of some members seem on the surface to be diametrically opposed to the party membership that they hold. The Labor Party has a case that we can build, in our service not only in this thirty-ninth Parliament, but also in previous Parliaments, that we are a party of business. We are a party that looks to the continued prosperity and growth of the business sector in this state. The absolute imperative that underpins our support for business in this state is jobs. The Labor Party has always stood for jobs. Above all else, we want to give the men and women of Western Australia the dignity of employment. Our entire being and structure as a party has been centred on the dignity and equity of the right to work and be a productive unit of our society. Yet in this bill, which has been introduced by this Liberal–National government in this thirty-ninth Parliament, we have clear evidence of this government’s view about the need to promote growth and jobs in the small business sector.

It is interesting that I should circle on jobs, because we are coming in this state to the end of the investment phase in the construction cycle of this mining boom, if we want to call it that. The Premier prefers not to call it a boom, because that implies that it will come back to some basis from where it started. In fact, it is more of an ellipse than a boom. Once the construction cycle has finished, the productive output of this state in metals and minerals, let alone gas, will not be back to where it started from in 2007, or pick a date; it will, in fact, be at a far greater output. Therefore, what this state needs is not another tax on business, but an investment in its future. This state needs an investment in the incentives of business, particularly for the small and medium enterprises that make up those bits of this economy that potentially will flush out the troughs between the peaks and the booms as we go through the normal cyclical nature of the resource sector. Various peak bodies, such as the Chamber of Minerals and Energy of Western Australia, the Minerals Council of Australia and the Chamber of Commerce and Industry of Western Australia, have talked about peak investment in the resources sector at being at around 2015 to 2017. That is no surprise and should have been no surprise to this government, because that has been the call of those bodies for many years now. In fact, since 2009 these bodies have put out various reports or statements to the public about when the peak investment in the resource sector—this \$72 billion industry in this state; this main driver of this state—will take place. There were no surprises. We have a very good forward estimates capacity, despite how Treasury might want to recalculate it. We also have a very good method of predicting income and revenue. As is the case with any large business, we predict the revenue flows into this large business called Western Australia

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and we know what we are looking for in the out years. So why is it that a tax-and-spend government would be a Liberal Party government? This is a tax-and-spend government that blithely went to election—not last year or the year before, but in March, a couple of months ago—and promised project after project to the people of Western Australia. It promised a Metro Area Express light rail. It promised a new stadium. It promised a waterfront project. It promised Browse. It promised Oakajee. It promised a Swan Valley bypass.

<020> K/1

We have heard nothing from this government that would tell us that we can have a future that we can believe in, because, since 9 March, we have had nothing but one broken promise after another. I do not need to detail them now.

One of the most heinous gaffes, I suppose, and one of the most heinous assaults on the economic driver of this state—small to medium-sized businesses and other businesses—is this tax. It is a \$527 million tax grab at and for the cost of business. I bet London to a brick that the irony is not lost on the Minister for Finance—who has spent his entire adult professional life talking about reform and advocating for reform, the free market and the incentivisation of every other part of our economy—that he should bring into this Parliament a bill that he cannot in his DNA comprehend as being useful to future employment opportunities in this state. It is not lost us. We have not heard that from the minister, so I do not want to verbal him on that. The minister has not got up in this place and said that, but we know his history. Alternatively, we could take the opinion of the member for Cannington, who said that the opposite is the case, and that the minister's actions since he came to this place—to impose a grinding tax on the sweat equity of every business in this state—represent his true beliefs, and everything he did in his previous professional life was in fact not true. I am not quite sure. The evidence here is the action; the words over 20 years of advocacy may in fact be nothing but words. However, I suspect that the Minister for Finance did not even know about this. In fairness to this minister, I do not think he even knew about this tax grab, the ribald reach into the pockets of Western Australian businesses to extract from them the sweat of their brow and put it into the coffers of this state. And why? To plug the gap that this tax-and-spend government has delivered upon the people of Western Australia. Not a few months ago, for a multitude of promises, “fully funded, fully costed” was the mantra. It was quick off the lips, but very slow on the delivery. It was very quick off the lips and non-existent in the delivery. This legislation is a plug to try to cauterise the bleeding that this government and this Premier have presided over. There is no doubt in my mind that a deal was done between the Treasurer and the Premier on the Duties Legislation Amendment Bill 2013. This tax cut was previously introduced and delivered by a Labor government that supports jobs through economic incentives such as that—a Labor government that had every intent to deliver on its promise, and did so, through legislative measures. This deal, this little drug deal, was done between the Treasurer and the Premier to overcome the Premier's addiction—to get him through a little addiction that he has—to spend, very quickly with a corporate credit card —

**Ms M.M. Quirk:** Just a taste!

**Mr P.C. TINLEY:** Just a taste, and very quickly he is like a junkie. The Premier needs more cash; this guy needs more cash. Right now, the Treasurer is his supplier. The Treasurer is the candy man for this government and this Premier who cannot help himself; he needs rehabilitation, and he needs time to dry out. The people who can give him time are his own backbench, who sit in this place and listen to these sorts of speeches and who have to endure these sorts of pieces of legislation that are offensive to their DNA. They have espoused their commitment to the free market, business and future economic growth. Where is the evidence of that commitment? It is not in this place, not today and not in this bill. I have in my mind a conversation that happened between the Treasurer and the Premier talking about his need for cash and his desire to have whatever he wants whenever he wants. The world according to the Premier needs simply to be rubberstamped by his own cabinet. I doubt very much that the Minister for Finance or even his office or department had anything to do with drafting this legislation. I have no doubt that Treasury actually drafted the legislation; probably Treasury, and not this minister, drafted the cabinet submission. Probably the first that the minister learnt about it was at a cabinet meeting when he saw the agenda and said, “Oh, a tax grab—a dirty, rotten, stinking \$527 million there to be grabbed. Oh! My name's on it. I've got to deliver this to the Parliament.” I bet it was the shock of his life that he was the patsy to deliver what was nothing more than a little backroom deal done by the Treasurer and the Premier because they saw this as just a Labor initiative. They said, “It was a Labor bill. It was a Labor policy.” It was Labor legislation; it was a Labor law that would deliver relief to small and medium-sized businesses. It would have delivered relief to those who are the biggest employers of people in our community and are, in fact, the biggest payers of all the other taxes and duties that this state has by good measure imposed upon them whilst they go about trying to improve the lives of not only themselves as business owners but also many thousands of people in Western Australia who work in small businesses. I should add, for members in the chamber who are unfamiliar with this, that in 1983, under then Deputy Premier Mal Bryce, we established the small business development council, and at that time there were

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about 100 000 small businesses in this state. Today, there are over 350 000 small businesses in this state. That is 350 000 families that benefit on the basis of their own effort, through their own, as I say, sweat equity. The sweat off their brow is delivered daily—and nightly, I might add—into those businesses to produce what is a tangible net return, we hope, but they do not all produce that. We all know the small business failure rate—many on the other side of the chamber would understand the failure rate of small businesses—and that to get past three years in business is considered a significant milestone. It is like recovering from cancer; if a business has no recurrence of bad debts over three years, amongst the many other stresses that are on businesses, it might actually survive.

I rise today to give this minister, this government and this house a plea from the trenches. This government has not simply put this tax cut in abeyance; it has not simply delayed the delivery of this tax cut, as it did once before. This government has not done that; it has driven a stake through the heart of small businesses at the very point that they go into business for. The government has driven a stake through the incentive to work to achieve goodwill. We know that at the point of the sale of a business, a valuation is done. That valuation, obviously, goes through the hard assets, the tangible assets, and that is very clear and easy to see when we have the depreciated value of it, but none of those assets has the profit component in them. None of those assets has the effort; they do not demonstrate or carry the actual daily effort of those 300 000 small businesses over years and years to deliver the one thing that we do tax—that is, the effort. Goodwill is simply the effort delivered by the owners of those businesses for the outcomes, and many of these small businesses have as an exit strategy the sale of their businesses in toto, so it is only at the point at which they go to sell that they actually earn a dividend.

<021> B/4

The vast majority of business owners do not take much more than a wage and, compared to the effort they put in, they certainly would not get that if they worked for a normal wage or salary elsewhere in the sector. Business owners are consigned to a range of imposts on their time, family time and the quality of their life because they want to deliver a special income—a special dividend—for the family.

I speak from personal experience in this area. I started a business in 2004. Goodness knows! Often our decisions in hindsight are considered silly, but I certainly enjoyed the adventure of it. I started a small manufacturing business in Naval Base making concrete products for the building industry. I did it as a start-up, so not only was it a manufacturing business, it was a start-up manufacturing business. We started it in an empty shed in Naval Base with a business partner. We kicked open the doors of an empty shed and put in a million dollars' worth of machinery. When we pay \$1 million—borrowed, of course, from the bank—and put the house on the line, there is nothing more invigorating or more challenging or more conducive to sleepless nights than a personal guarantee. Not a lot of members in this place know about personal guarantees; they do not quite understand the implications of them. I am not talking about directors' guarantees; they are a bit different. They are typically limited to the value and the assets of the company. A personal guarantee means everything of value that we own is available should our bet fail. Should the effort of the owner and the business fail, the lenders come looking for the family home.

Everyone in this place knows that I spent most of my professional life in the military. I thought I understood risk. I think I could prepare a risk matrix, as I did in various theatres where we operated, and I understood the risk of mission failure and the risk to personnel should we choose various options and pathways to go down in the various theatres we operated in. I was pretty comfortable with it. Getting into the back of a helicopter involves a certain amount of risk; we can define it and we accept it; it is personal. But nothing ever prepared me for the risk associated with a personal guarantee. Nothing ever kept me more awake and more interested in what I did on a daily basis than the idea that the family home that we had been paying off for 25 years, and every other investment and saving, were on the block. When we go into business there is a thing I describe as fear. The title *Fear Drive My Feet* of an old jungle fighting book from Papua New Guinea resonated a lot with me, because in business I could lie awake at three o'clock in the morning wonder whether the business would make wages this week; whether all our suppliers will be able to supply at the same price over the forward estimates; and whether all our clients will pay on time and they do not. We learn by hard experience that our debtors and our creditors do not play on the same cash-flow basis we need them to play on, and that we even agreed to play on. It does not work. Business is a cold, hard place with no certainties.

When we achieve something, as we did after three years, from a start-up manufacturing business to a business that was running profitably with a future, with market share carved out and with growth opportunity, we say that it is a good time to sell. It is a good time, depending on the wider strategy, to look at what else is next. I had my designs on another start-up business. I will get over the idea of start-ups before long. We looked at putting the business on the market. We had certainty over our processes and over our market share; we had demonstrable earnings, debt reduction and our maintenance and capital equipment program all definable. One thing I learnt about manufacturing was that every time we wanted to improve productive output, manufacturing worked in slices of a

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\$1 million. If we wanted to improve the time past a point on the production line, it cost about \$1 million. If we wanted to automate or use robots in the process, a magic number of \$1 million is involved. Process engineers in particular are very hungry people and they needed to be fed. In the end, with 25 employees and sales and a growing distribution network that was looking positive in a market in 2004 until 2007, it was a pretty rosy time, particularly for concrete products in the building industry. If we could not make money selling those products, we would never make a dollar so we might as well have worked elsewhere for a wage, but they were the circumstances. In the end, we sold to our partner, which was pretty handy, once we had been through a valuation process. It was in that valuation process, having paid—as Eric Ripper, the former member for Belmont said once in this place—for one of those “ugly sisters” already, having paid payroll tax, which is something I am happy to record here is an absolute horror cost on business.

To me, a tax on a driver is unbelievable. A tax on production, if we want to call it that, is effectively a disincentive for business and we ought to do all within our power on both sides of this chamber to have a long, hard look at recasting the revenue base of this state so we can get rid of those three ugly sisters or, as Eric Ripper said, convert them into something more meaningful and reflective of a market tax base because, obviously, we all need the revenue. I do not think too many people in this house would disagree with that as a sentiment. There are not too many people in this house who would disagree that those three elements should be taken out of our economic equation and converted elsewhere. Where we might disagree is where we might reposition the revenue base and those revenue flows. How to do that would be a great debate worthy of both these grand parties. My question is: is this the government that could deliver that reform? Is this the government that can have the conversation and initiate the brave and courageous steps required to recast the revenue base of this state to look to a brighter future that will deliver the jobs for not just my kids but my kids’ kids—jobs we cannot describe right now. If we cast our minds back to 10 years ago, some jobs in the information technology industry, for example, were not even invented and some jobs in the oil and gas industry were not invented. Not so many years ago in the metals and minerals area mine mapping—that is, mapping three-dimensional imagery of a minesite—was fairly rudimentary. Now, companies in this state have a world-class product in the software that manages mines and related services. It is something we need; it is something that goes to the fundamental root and branch investment that we as a Parliament ought to be making for future jobs; not revenue to plug a hole now; not a low-hanging fruit cash grab like this \$527 million drug deal done by the Premier and the Treasurer. That is not reform; that is not incentivising the economy. It is just papering over a mistake—a mistake that a tax-and-spend government such as the Barnett Liberal–National government has delivered upon this state. This poor minister is just a patsy who has been sold a pup to come in here and go against his entire DNA to deliver to this Parliament a turgid, retrograde step that defeats the entire incentive of businesses in Western Australia to deliver a future that this state can believe in—a future that this state deserves.

<022> M/N

**MR D.A. TEMPLEMAN (Mandurah)** [4.29 pm]: At the third reading stage of the Duties Legislation Amendment Bill 2013 it is important that we reflect on exactly what we are doing. The member for West Swan very eloquently highlighted the real problems in what this government is doing. We will be voting very shortly to jettison this bill to the other place where, according to the numbers, it will pass, as it will pass in this house. I want to reflect on the second reading debate, and particularly the consideration in detail stage. From memory, during the second reading debate, only one government member spoke on the bill, apart from the minister, and that was the member for Joondalup. I congratulate the member for his contribution. I highlighted that he was, in my view, the great apologist for the government. I think he had been put upon to make his contribution. After he made his contribution and I stood to make mine, he disappeared from the chamber! He ran out as fast as he could. I have never seen someone run so fast, as he vacated the chamber. I spoke to the member for Joondalup about that the next morning. We had a jovial conversation; he is a nice person. I believe that other members of the Liberal and National Parties’ backbench had an opportunity to make a contribution to this bill but refused to do so. I acknowledge the member for Joondalup’s courage to speak, but I condemn the other members of the Liberal Party who did not stand in this place to defend a piece of law that would have ensured a major contribution, if you like, to small businesses in Western Australia. Members of the government should be under no doubt that when we divide at the third reading stage—we will divide—members on this side will show its opposition to this bill.

The other day I spoke to my very good mate Geri Jones, an eminent Mandurah citizen. Quite interestingly, he said, “You watch; the Barnett government is in trouble now. They have a whole range of budgetary problems. They will start clawing back revenue from whichever source they can to plug the gaping chasm that exists in the fiscal outlook of the state.” He would have used those terms, being the learned person that he is. Geri Jones said to me, “You watch, they’ll start doing that.” He was right. The first action of this—in its own words—“new” government after the 9 March election was to declare as urgent, supposedly, a number of pieces of legislation, and it included this bill, which effectively is a slug on small business to the tune of \$527 million over the next four years. Be it on

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the heads of members of the government, particularly the new members of this Barnett government, that one of the first pieces of legislation the government will pass in this place is, in fact, a slug on small business. We are now reaching the end of the first session of Parliament for 2013. We will rise from this place in just over a week's time for the winter recess. When we were brought back into this place after the election to debate important legislation, like many other members I expected to see legislation that was promised during the election campaign, including further law and order reforms. We have seen none of that legislation. We have seen no new bills introduced into this place at this time, particularly on the mantra of law and order that was very heavily campaigned upon by the government during the election campaign. Instead, we have had this bill and the bills we debated earlier, all of which were designated urgent by the government purely because it has no legislative program of substance. The only legislative program of substance seems to be bills that have severe impacts on small business in Western Australia.

As the member for Willagee just highlighted, we know the Liberal Party in the past has trumpeted itself as a grand supporter and indeed advocate for small business. When this bill shortly passes through the third reading phase, one of the first pieces of so-called significant legislation introduced into the Parliament will not just be a further delay of a bill that will provide relief to small business as promised, but is effectively an abolishment of that relief. That really is very significant and very telling for what this government sees as being its priorities. In the next five parliamentary sitting days, the opposition looks forward to the promised legislation that we expected to be introduced into this place. I suspect, though, we will see later this week, and even early next week, further bills declared urgent but that will in fact not be of that substance; but they will be declared urgent purely because this government has no legislative program of substance to present to Parliament.

It is important to note and to reflect again on the words of my good mate Geri Jones about the government now seeking to claw back revenue from whichever source it can find. We need look only at the next bill listed on the notice paper, which I do not think we will debate until later this week, the Insurance Commission of Western Australia Amendment Bill 2013. That bill, which will also be declared an urgent bill—we will debate the issue of its urgency—is also a clawback in revenue for the government. I am sure the opposition will subject that bill to the scrutiny that it should be subjected to. In their inaugural speeches, new members talked a lot about the importance of transparency and being their own person and representing their communities. The communities they represent include many, many businessmen and women. But one of the first things new members are doing as part of their support for this bill today is in fact to the detriment of their community members, particularly those small business men and women. We will remind members opposite, and they should be reminded themselves, of their responsibilities. It is also important that this new government be framed by its early actions in this thirty-ninth Parliament. When we look at the debate that occurred during the second reading and consideration in detail stages, I hope they will see why, for example, the member for Victoria Park argued so strongly on the actual name of the bill.

<023> J/2

There was a very strong debate and a very important and, I think, appropriate amendment proposed to properly re-name this bill to reflect its true intention. Of course, that was voted down.

Also with regard to voting down, we had a very interesting experience in which the hapless member for Joondalup was at the centre of a controversial moment in the history of the thirty-ninth Parliament! A vote was taken and a division was called; I know he called the division. He is a new member and I am sure that all sorts of forgiveness was forthcoming. If I were the member, I would simply have admitted to it and said, "I made a blue," because, quite frankly, we were not going to persecute him. He should have just said, "Look, I made a blue; I was a bit too enthusiastic. I got here a bit too early; I pumped a few too many irons down there in the gym, had a blood-rush to the head and called out 'division' when I shouldn't have—and, look, I made a blue." We would have forgiven him for that, but now we know that, even though he called the division, he voted with the government again.

Members opposite: this is my final plea. Mr Acting Speaker (Mr I.M. Britza), my good friend the member for Morley, you and your colleagues on the Liberal Party side have one last opportunity to defeat this bill, and this is my plea. When we go to the vote shortly, after the member for Victoria Park makes a significant contribution to the third reading debate, there is one more chance for members opposite to change their minds and to reflect on the small businesses, the small business men and women in their communities, who would, from 1 July, have benefited from the initial thrust of the bill that was conceived by the former Leader of the Opposition, Hon Eric Ripper, and which, of course, was to have been initiated in 2010 but was subsequently delayed by the present Treasurer. This is the last chance for members opposite.

I know that the member for Swan Hills is a fair person, most of the time. He, I am sure, would come across here. The member for Belmont was very much involved in local government prior to coming to this place and, I am sure, has worked with many, many small business men and women in the Belmont district. I think that she, in all

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decency, would come across and vote with us against this bill. The member for Alfred Cove and the member for Churchlands are both new members, and small businesses are at the centre of their respective communities in Alfred Cove and Churchlands; there certainly would be a huge number of their constituents involved in small businesses. The member for Geraldton, in regional Western Australia; the member for Forrestfield; members from electorates in the wheatbelt region; members who have small businesses in the Pilbara, Gascoyne, south west and Peel regions; and members who have small businesses in Albany—all those members have a responsibility, so here is their chance to come and join their brothers and sisters on this side and have their names recorded as not following like ducks, to use the term I used in my last contribution to debate on this bill. They should not waddle like ducks behind the Premier and the Minister for Finance when the division is called. They will file into the chamber and sit on that side to support this bill. They know, in their hearts, that they want to oppose this bill because of what it does and because it is a slap in the face to small businesses in Western Australia. Here is their last chance. The chance is for them to show themselves to be true to the words in their inaugural speeches, such as “transparency” and “integrity”, to act independently and to not be swayed by those who just want to use them as lucky ducks! They have that chance.

Mr Acting Speaker, I hope that during this vote you will come down from that lofty chair that you sit in, the Speaker will take the chair, and you will join us on this side, because I know that in your heart you agree with what I have said. In the words of my very good friend Geri Jones, who is an eminent citizen of Mandurah, this is another example of the government clawing back more revenue because it has a huge black hole, a chasm in the state’s fiscal outlook. This is the chance for members opposite to demonstrate that; I will be looking very closely at the member for Joondalup who is, I know, an honourable person and who will, of course, immediately come across and vote with us. I ask members to please do that; it is their opportunity to demonstrate real vigour and independence and, indeed, that they care about small business men and women in their constituencies, and the importance of small businesses to the Western Australian economy and the Western Australian community.

**MR J.R. QUIGLEY (Butler)** [4.45 pm]: I would like to congratulate the member for Mandurah on his speech. He really exhibited those qualities that so endear him to all his colleagues on this side of the chamber—that is, his optimism in looking at the better side of human nature, his appeal to reason, and his belief that putting reason before reasonable people will persuade them to some reasonable course of action. Therefore, Mr Acting Speaker, he appeals to you that, when you leave the chair, you join us on this side of the chamber, on the basis of reason, in opposing this impost on small business.

On the other hand, I am a beast of an entirely different nature and not so well regarded by my colleagues in the caucus, because I am more cynical about human nature—perhaps hardened a little by criminal law and therefore more cynical by nature than my friend from Mandurah—and would regard what is happening here to be a fraud upon the people of Western Australia. There will be no quibbling or wavering in the votes; those people like the member for Churchlands and the member for Alfred Cove who made these speeches promoting business small business and which were detailed by my learned friend the member for Victoria Park in his contribution to the second reading debate are, of course, going to cast all that out of their minds and, with hypocrisy in their hearts—not the lofty ideals appealed to by the member for Mandurah—will vote against that which they spoke in favour of and extolled in their maiden speeches in this chamber; the speeches they made in the presence of their family, friends and political campaign supporters —

**Ms R. Saffioti:** And their donors!

**Mr J.R. QUIGLEY:** Their donors—their small business donors. When they were saying those things in front of those people to impress them with their words, they knew that as soon as the bite was put on them by the Premier and the Treasurer—as you knew, Mr Acting Speaker—to vote against the interests of small business, they would all line up like a row of ducks crossing the road and, one after the other, vote down small business. We know that.

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A political philosopher—I forget who—wrote that in a democracy the people always get the government they deserve. Of course that rule is made by the exception when the government is taken by fraud and by false promise. This government, which believes it has a right to rule, has more front than Myer, as people say. It will come out and say anything to get votes. Who will ever forget the 2008 election when it said, “We are going to close down brothels in the suburbs”? What did it do? Absolutely nothing! In five years what has it done? Absolutely nothing! I came into this chamber when the previous Attorney General, Hon Christian Porter, was a member of this chamber. I took the media out to—I think it was—827 Beaufort Street and said, “Here’s a block of flats. Here’s a brothel. The government aren’t doing a thing about this. They’re frauds.” Members will remember that Hon Christian Porter came into this chamber and said, “We’ll show you who is a fraud, member for Mindarie”—as I then was—“when we bring in our prostitution legislation and see which way you vote.” Who were the frauds at

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the end of the day? They were Hon Christian Porter and the then government under Premier Barnett—they never brought the legislation into Parliament.

*Point of Order*

**Mr C.J. BARNETT:** I think my point of order is quite obvious. This is the third reading of a speech on duties. The third reading is specifically to review aspects that come up in the second reading debate, not to discuss prostitution law.

**The ACTING SPEAKER (Mr I.M. Britza):** Yes; point taken. The member needs to come back.

*Debate Resumed*

**Mr J.R. QUIGLEY:** I will get back to the point. The point I am making is that Liberal members will come to the people with any broad promise to get government and then do whatever they want having achieved government. We heard this in the contributions to the second reading debate and all the other promises for Metro Area Express rail and the like. I was only bringing prostitution into the debate—I will not go back to that debate—as yet another example of uttering any populist saying to achieve government. Liberal members did not say to all the small business people in the electorate of Butler, “The first piece of substantive legislation we’re going to introduce into Parliament is a tax grab on your small businesses.” They never said that, yet the first substantive piece of legislation they bring into this chamber is a tax grab on small business. As I said, the members made their inaugural speeches in front of their campaign committees and donors—the small business people who helped them get elected to this place—who heard all these high and mighty words about how they were here to support businesses in Western Australia, and the first thing they did was kick them in the teeth.

The very fine argument of the member for Mandurah and his invitation to you, Mr Acting Speaker, to the member for Churchlands and to other members of this chamber to vote in favour of small business, of course, was just words in the wind; not one of them has the slightest intention of doing it. The member for Churchlands, the member for Belmont and the member for Alfred Cove should follow the Premier’s lead. At least he stood up in this chamber years ago and—although he got it wrong—spoke against his whole party’s intention to split Western Power. He said, “I’m not going to die in the ditch and vote against it but I’m going to say it’s wrong.” But not one government member has the gumption to say that. It was not a career-ending move for the Premier. Look where he is sitting now! He made the wrong call but he made it in conscience. He was sitting in the chair now occupied by the member for Victoria Park, in front of where I now stand, when the then Leader of the Opposition and member for Kalgoorlie, Matt Birney, said that the opposition would agree with the Labor government of the day for disaggregation. The Premier said, “This is wrong and I’m going to argue it’s wrong forever but I’m not going to die in the ditch. I’m going to vote for it.” I invite the member for Churchlands, the member for Alfred Cove and the member for Belmont to stand in this place and repeat what they said in their maiden speeches, that the content of this bill is wrong. It will not end their careers and at least they will go home and sleep with integrity knowing that they have spoken up against this bill, which is the first bill that has been brought into this Parliament to kick small business in the teeth. It did not stop the honourable Premier’s career and it will not stop theirs, but at least they will have spoken the truth and they will have joined Labor in speaking the truth. It will not change the course of history, but there will be some hope out there, along the Terrace and in the suburbs that in this Parliament people will actually say what they believe and will not just line up behind the Premier like a little row of yellow ducks crossing the road and saying, “This will all be forgotten in four years’ time and the press gallery will forget this.”

What happens to a government? The rot sets in. This is step one. Then there was the reversal to comply with the Premier’s desire when he made the speech to take competition out of power generation in Western Australia, which has been extolled by the Chamber of Commerce and Industry of Western Australia and all businesses in Western Australia. All government members will do that too, because the Premier tells them to do it—not because they believe in it but because they are told to do it. They should stand up and do what the Premier did and speak the truth; then this Parliament will have its integrity restored.

No-one in Western Australia would say that this idea of levying an impost of \$527 million on small business in these straightened economic times is a good move for employment in Western Australia. The only thing it does is help paper over profligate spending by the Treasurer. Why do members think Hon Christian Porter went for the parachute? I spoke to him at the time of his last budget and he said, “I can’t sleep. I’m trying to get this budget together. I can’t sleep. It’s just stressful.” That is because he could see the out years and the writing on the wall. He did not want to have to carry the bucket or the sledgehammer and come into this chamber and introduce this sort of legislation to belt small business in the teeth. Hon Christian Porter did not want to do that; he went for the parachute.

However, all these government members have come in and made these lofty inaugural or maiden speeches in this Parliament in front of their donors, who put their hands in their pockets to get them into this chamber on the pretext

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that they were voting Liberal and that Liberal would support small business, and the first thing they do is kick them in the teeth. In the middle of the night or at five o'clock on a Tuesday night—it was the middle of the night when they were all busy in their small businesses, not following the debate and not listening to this debate—the Premier would have been saying to Liberal members in the party room, “Don’t worry, it’s another three and a half years. People will forget.” But the tone of a government gets set as to whether or not government members have been fraudulent in the way they have achieved the treasury bench and what they are doing when they are there.

I therefore appeal, not to the higher nature of government members that they will come over and vote with us, but to at least some of them to have the gumption and the intestinal fortitude to do what the Premier did when he stood here and said that although he was not going to die in the ditch and vote against the Liberal opposition leader at the time, he was going to tell the truth as he saw it.

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He was wrong, but he told it as he saw it. I say to the government members opposite who have made these lofty speeches in favour of small business, “Get to your feet! Fly the flag!” I say to the member for Alfred Cove, “Fly the flag! Tell the government.” Government members know that this is wrong. People only have to look at the member for Alfred Cove’s maiden speech made in front of his donors. His donors are not here now; therefore, he thinks he can just come along and vote with the ayes and it will all just be okay; that they will never hear about it. The member might be right in that last regard, but it lacks integrity. It eats into the integrity of this government, such as it is. I am not going to appeal to any of the government members to actually cross the floor; I know that the Premier will exercise discipline. Instead we will see one government member after another give small business a cracking good bunch of fives in the teeth!

**MR W.J. JOHNSTON (Cannington)** [5.00 pm]: I do not want to speak long; I just want to make a couple of points. The first is this confusion that was created during the consideration in detail stage on the question of whether this tax was agreed to be abolished as part of the GST agreement. Let me get on the record exactly what happened because I know the minister’s answers in the consideration in detail stage were confusing.

The original package included this measure to be abolished. When the Howard government compromised with the Democrats in the Senate to exclude fresh food, education and health services, it is true that the commonwealth government then came back to the states and said, “Because we’re not going to raise as much revenue as we expect, we’re going to allow you to keep these taxes for longer; but you’ll still have to eventually get rid of them.” That is the point that both the Labor Party and the minister made in his second reading speech. At the time the deal was done, these taxes were included in the deal. Even when the deal was modified subsequent to the passage of the legislation through the Senate, these taxes were still in contemplation. It is true that there was an extension given for the timing of the repeal, but it is not true to say nor can there be any suggestion—as I think the minister may have been attempting to do, although it may be just confusion in the way it happened at the time—that these taxes were not part of the agreement. It cannot be suggested that it was not in contemplation of their removal, even subsequent to the passage of the legislation through the Senate of the commonwealth Parliament; let us get that confusion set aside.

Another piece of confusion was that the Labor Party has been pointing out this legislation will apply to small business. The government’s defence is, “Oh, it will apply to big business.” We are not saying that is not true, nor is it a defence. Our point is that for a party that holds itself as the Liberal Party does—that is, as the representatives of small business—it seems unusual that it has come along and placed this impost on small business. It is true that it is also being placed on mining companies and other organisations in the state. That is not a good thing; it is just that it is not the issue we are highlighting. We are highlighting the actual contradiction in the position of the Liberal Party; namely, that it advocates for small business yet its first substantive piece of legislation is to increase taxes on small business. It is a pernicious part of the taxation because the government is taxing the goodwill and the intellectual property of small business. The reason I highlight the goodwill part is that is what so many people in small business work and sweat to achieve; they might have a retail business that does not have many actual assets. I have a resolution on the books regarding the merger of Verve and Synergy and when I come to eventually debate that matter, I will be making some comments about the minister’s position on that issue. However, just because it is not a tangible asset does not mean that it is not a valuable asset. For small business people, the biggest value in their business is the goodwill. Therefore, the government is taxing the hard bit that they have fought to get into their business.

When I talk to small business people in my electorate, they say to me that they go without; that they take less out of their business; that is, that they take only a very small effective wage out of their business because they are trying to build up that goodwill and good name component of their business. However, having fought so hard and having missed out on all the benefits of coming home and being with their family, all the things that small business people have to suffer through, the state government will tax that component. That is why we say that this tax is



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particularly pernicious. We are not saying it is a good thing that the government is taxing the intellectual property of some major corporation or any of those things; we are just pointing out that this is a particularly bad aspect of the taxation legislation.

The final point I raise is the “shove out the window”. Opposition members on this side of the chamber actually feel a bit sorry for the minister because he got shoved out the window by the Treasurer. The Treasurer made decisions without consulting and allowing the minister to be a part of the decision-making process. The Treasurer comes into the chamber and makes the announcement; it is then the minister who is the one who has to carry the bucket of excrement out of the cabinet room and into the chamber. People can feel sorry for someone who has spent his entire life arguing against what is happening today, who now gets to vote exactly opposite to what he has argued every day prior to his entering this chamber, but he takes the salary. He prefers to have the big white car than stand up for principle. That is his decision and we do not say anything else about that, but that is what he has done and we want to acknowledge that.

I will not invite the Liberal backbench to cause a revolution tonight because we know that is not going to happen. But I do make the point; namely, a couple of years ago in this place there was a piece of legislation to do with child protection. It introduced a change that I did not think was a good idea. The caucus voted in favour of that change and, as a member of the Labor Party, I came into this chamber and voted in favour. But before I voted in favour of that change, I put my position on the record here in this chamber. Members can go and have a look in *Hansard* to see that I set out why I thought it was a bad idea and what I thought would be the consequences of that piece of legislation. I did that myself. The member for Butler pointed out that the Premier himself put on the record his position in respect of the electricity system. Therefore, there is an opportunity for members to remind their future selves to write a memo to themselves in the future to say, “I stood up for what I believe; I objected to something that was bad.” This is bad legislation. It is not like anybody has actually come in here and said, “Gee, I’m happy about this! This is fabulous.” All members have said, “Oh, well; you know—in the future, in the past, in the present.” None of them has actually said, “We’re happy to slug business \$527 million; we think that’s the best way forward.”

The reason we are in this position is that the Premier and the Treasurer have not controlled expenditure. Every day in the last session of Parliament somebody on this side of the chamber raised problems with the expense control and the uncontrolled growth of expenditure on the government’s side of the Parliament. Opposition members raised the fact that if the government were to increase borrowings from \$3 billion and a bit to \$20 billion, its interest bill will go up and it will have less to spend on health, education and community safety. We pointed out all those things; we were rubbished every day in the last Parliament but the roosters have come home today. The Liberal Party has increased its taxes on business, particularly small business, by over \$500 million. If members opposite are not proud of it, stand up and say so! If they do not think it is a good idea, stand up and say so! Because their silence speaks as well; that they think it is a good idea; that there was nothing wrong with the legislation. But we will remind government members in the future about that. With those few words and that little time, Madam Acting Speaker, I thank you.

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**MR B.S. WYATT (Victoria Park)** [5.09 pm]: I, too, rise to speak to the Duties Legislation Amendment Bill 2013. Much has been said by the opposition; little has been said by the government. As we all know, the opposition during consideration in detail moved a number of amendments, some of which were very reasonable. Government backbenchers were keen to support some of those amendments, in particular the member for Churchlands’ amendment. I know the member for Churchlands would have been keen to support that amendment. It was a healthy compromise that simply required the government to come back in two years to tell us whether it had controlled the books. It required the government to discipline itself over the next two years. It would have given the government two more years of revenue from this tax before its abolition on 1 July 2015. That was a reasonable amendment. If the government had not been able to bring down expense growth to below the average 10 per cent growth it has had every year for the past five years, it would have had to come back to Parliament and explain why it needed to once again defer this pernicious tax, as outlined by the member for Cannington.

With an indefinite deferral, which is what the government is doing now, the tax will never be abolished—certainly not under this government. It is gone; the revenue from this will be factored into the forward estimates at budget time. It is an amount of \$527 million for 2013–14 and each year it will still be there in the out year. It will become very, very difficult for the government to impose the discipline on itself to find the room in the budget year, whatever year it is, in the forward estimates to deliver this tax cut. In his third reading reply, the Minister for Finance may need to clarify his second reading speech. The member for Cannington has made his point. Clearly, the Minister for Finance is uncomfortable with the content of his second reading speech. I dare say that he did not

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have the chance to read it before he gave it a few weeks ago. During debate he acknowledged that he was wrong when he said in his second reading speech —

Western Australia previously undertook to abolish this duty from 1 July 2010, as part of the GST agreement between the commonwealth and all states and territories. This abolition was legislated for in the Duties Legislation Amendment Act 2008.

In the minister's reply to the second reading speech debate, he admitted that that was wrong. In consideration in detail, there was much discussion between the minister and the opposition about whether he was wrong and who was right. It is clear that the minister is uncomfortable with the content of his second reading speech. As the member for Cannington and other members and I have said, the second reading speech is a particularly important legislative record. In the event that a court needs to interpret the meaning of legislation, it will look to the second reading speech. I dare say that this is not a hugely complicated bill and it will not be the subject of much litigation, if any, but a second reading speech is an important record of the intent of the legislation. The Minister for Finance will need to clarify that when he gets to his feet to reply to the third reading debate.

I also want to address the government's claim that its election commitments were fully funded and fully costed. That is clearly untrue. That is clearly a lie that was told during the election campaign because "fully funded, fully costed" was based on the *Pre-election Financial Projections Statement*, which does not include the revenue that this legislation will bring in for the government. That clearly shows that projects were not fully funded and they were not fully costed. That significant deception has been perpetrated on the voters of Western Australia. If that were the case, the government would have been honest and transparent, as the Minister for Finance has said that he is being. I made the point that, unfortunately, he is being transparent after the election. It is very easy to be transparent after an election about tax cuts and cash grabs on the Insurance Commission of Western Australia. It is not as easy to be transparent pre-election. The "fully funded, fully costed" claim was perhaps the most significant lie told during the recent state election.

Tax was an issue; it is not as though tax was not discussed during the election campaign. The Treasurer and I debated this very issue in a room full of 600 members of the WA business community hosted by *WA Business News*. When announcing the policy decision to at some point this term lift the threshold on payroll tax, the Treasurer made the point that an incoming Liberal government will have a commitment that tax will be as low as possible. It was directly addressed during the election campaign. Questions from the floor were given to the Treasurer and to me. My response to that was to be perfectly honest and transparent. I said that as shadow Treasurer I could not match the commitment made by the Treasurer that morning because I could not commit to debt funding a tax cut. I could not commit to providing that tax cut because we have spending priorities and there is pressure on state debt. I was very frank and I think people appreciated it. Maybe that room did not appreciate it 100 per cent, but they certainly appreciated it somewhat. Whereas the Treasurer said that he would lower taxes if the Barnett government were re-elected, he did not go on to say that, "However, you may recall, diners,"—all the people down there were having their breakfast—"in 2010 I introduced the Revenue Laws Amendment Bill." He did not say that he introduced it but he did not get to see it through because then the Premier became the Treasurer, due to circumstances we will not discuss at the moment, and his very first act as Treasurer was to defer this tax cut. That is why I said that the Minister for Finance has something in common with the Premier; his very first act introduces a tax hike on the business community of Western Australia. It was early May 2010 when the Premier brought this legislation to Parliament to defer a tax cut from 1 July 2010 to 1 July 2013. I recall that at the time—I am reading through *Hansard*—it was fresh off expense growth of 13.5 per cent in 2008–09. I thought at the time, this government does not have the self-control to lower expense growth and come 2013 we will be back for another deferral. I said that; I quoted myself, and I will quote myself again. On 4 May 2010 during the third reading debate on the Revenue Laws Amendment Bill 2010, which was the first deferral of the tax cut that we are deferring indefinitely now, I said —

... it is an enormous leap of faith to assume that the government will have the ability to impose that sort of spending constraint upon itself, which is why I dare say the abolition of this tax will be deferred again.

I could never have assumed that it would be deferred not only again, but also indefinitely, which under this government effectively means deferred forever. When the Treasurer, the member for Vasse, sat on this side of the chamber, he demanded of the then Labor government a real per capita spending cap on government. He was railing against the spending growth under the former Labor government. To quote the member for Vasse when he was shadow Treasurer —

I suggest to the Treasurer —

The then member for Belmont —

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that the point he could start at, with all due respect to his obvious wisdom and experience, is a real per capita cap. The Treasurer might recall a real per capita cap in government expenditure; it is the sum of the rate of inflation and the rate of population growth yielding a percentage term, which should then be applied to the annual increase in government spending.

The shadow Treasurer at that time wanted a real per capita cap placed on government spending. Unfortunately for the business people of Western Australia, when he became Treasurer, he did not rush in to legislate that cap. If he had done that, instead of having average spending growth of 10 per cent every year, the glide path of spending in Western Australia would be significantly different.

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The government would then have found over that five-year period about \$14 billion in surplus revenues. The government could have directed that revenue to its tax cuts. It could have directed that revenue to the commitment that it made in 2008, when it said all the savings identified by the Economic Audit Committee report will be returned as tax cuts. In the 2011–12 budget, the Economic Audit Committee put a figure of \$900 million on its savings. The government could then have delivered on the \$250 million that it promised in tax cuts and let those taxes be abolished, as the law currently says they will be.

But the government has not been able to control its spending commitments. That is the reality. The government has not even been able to match the spending commitments of the former Labor government, which averaged 7.5 per cent over eight years. Had the government been able just to match the average spending growth of the former Labor government, and had it gone on a different glide path of spending, it would have been able to find about \$9 billion in savings. When the member for Vasse sat on this side of the house, he railed against the out-of-control spending of the Labor government. He railed against salaries growing at 40 per cent of general government expense. That was 40 per cent! What is it now? It is 40 per cent! Despite 30 per cent revenue growth, the government still has 40 per cent of its expenses in salaries. That is despite the government's cap on full-time equivalents. That is despite the government's so-called wages policy. I remember the government's wages policy. It was CPI to a maximum of WPI—wage price index. Had the government stuck to its wages policy, it would have had maximum wage growth of 21.2 per cent. Instead, over the last five years, salaries have grown by 37 per cent on an annual basis. The government is now paying 37 per cent more—\$2.6 billion or \$2.7 billion more—for wages than it was paying in 2008. The government now has a policy of changing the law and sacking public servants, and a freeze on wages according to CPI. That is because the government has failed to implement its own policies.

The government is now expecting the business community of Western Australia, through this Duties Legislation Amendment Bill 2013, to stump up for its failure to control its own spending. Government members have not been able to meet the standards that they demanded when they sat on this side of the chamber. That is the reality. The government has not even been able to meet the spending standards of the former Labor government, which it so decried, and which were described by the now Treasurer, the member for Vasse, as being utterly out of control. When the government applies its own standards to itself, it is found to be wanting badly. Yet the government keeps coming back, putting up this tax and putting up that tax, to bail itself out of the trouble that it has got itself into.

The other excuse that has been given by the Minister for Finance for the necessity to defer this tax cut indefinitely is plunging goods and services tax revenue. That is what the minister said in his second reading speech, and I am sure he will stand by that comment. Therefore, it is worth looking at what the budgeted GST revenue was in past financial years and what the actual GST revenue was, because that is the standard by which the government needs to be measured. Government members opposite carry on as though each financial year, GST revenue has plunged dramatically from what the government had budgeted for. That is simply not true. In 2008–09, the state got \$428 million less in GST revenue than was budgeted for. In 2009–10, the state got \$258 million more in GST revenue than was budgeted for. The government has said that this is very important information as to why it now needs to bring on this legislation for this tax increase. In 2010–11, the government got \$216 million less in GST revenue than was budgeted for, and in 2011–12, it got \$163 million less than was budgeted for. For 2012–13, the financial results for the March quarter confirm that GST revenue was the same as the expectations in the *Pre-election Financial Projections Statement*. In this case, we are looking at an increase of \$169 million in actual GST compared with the revenue that was budgeted for.

So, over those five years, the reality is that there has been a decrease of only \$380 million in GST revenue compared with what the government had budgeted for. When that is compared with revenue of nearly \$115 billion, that is a decrease of 0.33 per cent. That is the reality of the GST. Everyone accepts that Richard Court made a mistake with the assumptions that he made when he signed up to the GST agreement. I went through those assumptions in the second reading debate, and I will go through them again in a minute, because I now have a bit of time to do that. Thank you, Madam Acting Speaker.

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**The ACTING SPEAKER (Ms J.M. Freeman):** Member, you need to stay to the relevance of the bill, so you do need to keep bringing it back to the clauses that have been agreed to in the bill.

**Mr B.S. WYATT:** Madam Acting Speaker, the GST revenue was the subject of much debate, because it goes to the second reading speech, in which the minister said that falling GST revenue was the reason why this measure needs to be introduced. But the reality is that the GST has come in at basically what the government expected it to be in every single budget. There has been no significant difference. That difference is 0.33 per cent of revenue. That \$300 million less in revenue was more than made up for by gains during that period. During that same period, the sale of goods and services increased by \$400 million more than was budgeted for. That more than offset the loss in GST revenue. Similarly, capital grants came in at \$350 million more than the loss in GST revenue during that time.

Western Australians expect the Premier to manage the budgetary circumstances in which he finds himself to the standards that he demanded when he sat on this side of the chamber. They expect the Premier to keep expense growth under control and debt under control. Instead, we have had years of carping about the GST. But the GST has been exactly what the government budgeted for. The problem has been the spending side. The problem has not been the revenue side, because when revenue grows by 30 per cent in just five years, that is healthy revenue growth by any measure. The problem is that this state is now finally facing the consequences of the Commonwealth Grants Commission distributing the GST as was always predicted and as was always effectively intended. For the state of Western Australia to complain about returns from the federal government is not new. It predates the GST. The Court government budgets were full of complaints about how we were being ripped off by the federal government. This has been a common theme in budgets for at least the last 20 years. But what has happened with the GST? The Court government made the decision that it would handball all these taxes that we control, and all the revenue from these taxes that we control, to the federal government and to the Commonwealth Grants Commission. The Commonwealth Grants Commission would then apply fiscal equalisation principles to that, and it would put it in its little black box and spit out how much of that money we will get back. But we went into this with our eyes wide open.

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We knew that we were ceding more financial sovereignty to the federal government. We knew that. There was a particularly interesting debate—an exchange, between the then Premier, Richard Court, and the former Treasurer, the former Leader of the Opposition, Hon Eric Ripper. On 13 October 1999, obviously, during the debate in the lead-up to the introduction of the GST, Mr Court, in reference to the GST system, said —

At least with this regime we will be given access to all of a major growth tax. That is a step in the right direction.

This is the fatal mistake that Mr Court made. He was assuming, quite incorrectly, that we as a state would get access to all of that growth tax that we would then contribute—it was 1999—to the GST pool. He ignored Eric Ripper's response and, unfortunately, we are paying for that now. Richard Court was also the Treasurer at the time. Eric Ripper said —

The Treasurer has given up on his historic battle with Canberra. He says that we will be given access to a growth tax. Let me put that more precisely: We will be given access to a share, to be determined by the Commonwealth, of that taxation revenue. That share might change from time to time depending on whether the Commonwealth thinks that Victoria or New South Wales needs a bit more.

Mr Court interestingly interjected —

Are you saying that the Commonwealth Grants Commission should change?

And the debate went on, in which Eric Ripper certainly accepted that fact. The unfortunate problem we had —

**The ACTING SPEAKER (Ms J.M. Freeman):** Member, I accept that it was spoken about in the second reading speech, but can I bring you back. The third reading debate is on the content of the bill. I have given you some latitude, but I need you to come back to the bill.

**Mr B.S. WYATT:** Is that back to the consideration in detail?

**The ACTING SPEAKER:** Yes—the agreed clauses in the bill.

**Mr B.S. WYATT:** Yes, absolutely. You will recall, Madam Acting Speaker, during consideration in detail, the amendments moved by the opposition surrounding the title of the Duties Legislation Amendment Bill 2013 and, in particular, surrounding the desire to have this tax cut come in two years from now, so as not to simply give the government a free hand to spend and spend and spend and therefore defer forever the hope that the business sector

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might get this tax cut. That became a specific point of contention between the opposition and the Minister for Finance, because the minister was trying to walk away from his second reading speech. We all remember that because it was quite extraordinary. I do not think that has happened before. If it has, maybe someone can get up and tell me when.

On that point, the time, when we actually had the whip hand, to change how the GST would be distributed, was when everyone was rushing to sign up to John Howard and Peter Costello's GST. Richard Court and the cabinet—the current Premier was a senior member of that cabinet and deputy leader of the Liberal Party—were rushing to sign up to the GST because then Premier Court assumed that WA would have access to all the GST growth tax that it would contribute to the pool, despite the fact that the shadow Treasurer, the member for Belmont, Eric Ripper, was saying, “No, no, no! The Premier knows that we will just get a portion because the Commonwealth Grants Commission will take our revenue and apportion that out.” As Eric Ripper said at the time, the Commonwealth Grants Commission may decide that other states deserve more, as it is deciding now and as was predicted in 1999. Therefore, do not for a minute think that this GST redistribution has come out of nowhere. The GST is working exactly the way in which it was intended to work when the Court-Barnett government rushed to sign up to it in 1999. Now, of course, trying to fix the problem when it requires the unanimous support of the states is almost, if not, impossible. Despite everything that the Premier has said, despite his complaints about Julia Gillard not understanding the issue and all of that, what do we get from the federal leader of the Liberal Party? We get this ad, which I am holding, that was on the front page of a Tasmanian newspaper. For those members in the gallery, of course, the biggest losers of a fairer distribution of the GST would be states such as Tasmania, hence federal Leader of the Opposition, Tony Abbott, placed this ad on the front page of *The Examiner* in Tasmania on 11 May this year. The ad states that Tony Abbott says —

“The Coalition fully supports the existing GST arrangements. We will not change them ...

All hope is now gone if Mr Abbott becomes Prime Minister, because he not only will not change the GST arrangements—it is not as though it is an ambivalent acceptance of the status quo—but also “fully supports” the GST system that the Premier has said is dudding us. Everyone is now saying that the GST system is dudding us, despite the fact that Richard Court was specifically warned in 1999 that if he signed up to the GST, he would cede financial sovereignty to Canberra. That is where we are at now because the Commonwealth Grants Commission is doing exactly what Eric Ripper predicted back in 1999. Now here we are with a government that is unable to manage its spending priorities, so we have average expense growth of 10 per cent, which is unsustainable and creating a structural problem that the Treasurer now says must be fixed, which was created by that very Treasurer who says, “We now need to fix this problem that I’ve created, despite the fact that the wages policy failed, the FTE cap failed, my real per capita expense growth cap failed and my promises around tax failed—out the door.” Another tax is coming; the Insurance Commission of Western Australia tax will be another slug on the family budgets of Western Australia. The government is now expecting everybody else to fix the problems that it has created. That is what this government has done. The business community now has been told, “This tax cut has gone.”

Members on this side of the house spent some time looking through speeches given by members of the Liberal Party who talked about their desire and commitment to innovation, the risk-taking of business, small government and lower taxes, yet the very first legislation of substance that this government brings on is a tax rise! The very first thing of substance that the government brought on was a tax rise, closely followed by a cash grab on the Insurance Commission of Western Australia. I agree with the member for Cannington: I think the Treasurer sold the Minister for Finance a pup on this one. The Treasurer came into this place with a brief ministerial statement announcing that this is what he was going to do, then handballed it to the Minister for Finance and said, “You’re on your own; I’m off. You can deal with this one.”

**Mr W.J. Johnston:** Have you been impressed by how much the Treasurer’s come in here to help?

**Mr B.S. WYATT:** I have been very impressed, which is why we moved that amendment to impose that financial discipline on the government. It was not an unreasonable suggested amendment, because I acknowledge that the government has probably already spent the first two years’ take of this revenue. The government has probably already allocated that \$250 million or \$300 million. Therefore, we moved an amendment that would simply make the following point. Okay, let us defer the abolition of this tax cut by two years to 1 July 2015. That would give the government the time to start looking more broadly at its finances and work out its priorities. The government could still honour the commitments made for which that money has been allocated, but then it would be forced to come back into this place and explain why it has not been able to control its spending. The government was not even willing to consider that. We called that the “Churchlands amendment” because the member for Churchlands made that very point in his contribution to the second reading debate. The member for Churchlands said that he was looking forward to being able to come back into this place and vote for the abolition of this legislation. We

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gave the member for Churchlands that opportunity, and he voted against it. Ultimately, despite all the government's rhetoric, this is a financial problem that it has itself created and now it is looking to the business community of Western Australia to bail it out.

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**DR M.D. NAHAN (Riverton — Minister for Finance)** [5.39 pm]: I thank everyone from both sides of the house for their contributions to the debate and I commend the bill to the house.

*Division*

Question put and a division taken, the Acting Speaker (Ms J.M. Freeman) casting her vote with the noes, with the following result —

Ayes (30)

Mr P. Abetz	Mr M.J. Cowper	Mr C.D. Hatton	Mr J. Norberger
Mr F.A. Alban	Mr J.H.D. Day	Mr A.P. Jacob	Mr D.T. Redman
Mr C.J. Barnett	Ms W.M. Duncan	Mr S.K. L'Estrange	Mr A.J. Simpson
Mr I.C. Blayney	Ms E. Evangel	Mr R.S. Love	Mr M.H. Taylor
Mr I.M. Britza	Mr J.M. Francis	Mr J.E. McGrath	Mr T.K. Waldron
Mr T.R. Buswell	Mrs G.J. Godfrey	Mr P.T. Miles	Mr A. Krsticevic ( <i>Teller</i> )
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	
Mr V.A. Catania	Mrs L.M. Harvey	Dr M.D. Nahan	

Noes (17)

Ms L.L. Baker	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Dr A.D. Buti	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman ( <i>Teller</i> )
Mr R.H. Cook	Mr M.P. Murray	Mr C.J. Tallentire	
Ms J.M. Freeman	Mr J.R. Quigley	Mr P.C. Tinley	
Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson	

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Pairs

Ms M.J. Davies	Ms J. Farrer
Mr N.W. Morton	Mr P. Papalia
Mr B.J. Grylls	Mr W.J. Johnston
Mr R.F. Johnson	Mr F.M. Logan

Question thus passed.

Bill read a third time and transmitted to the Council.