MINERALS RESOURCE RENT TAX

Motion

HON NICK GOIRAN (South Metropolitan) [2.22 pm]: I move —

That the Legislative Council —

(a) congratulates the Barnett government for its strong and determined representations against the minerals resource rent tax imposed by the Gillard Labor government on iron ore and coal producers in Western Australia and other states; and

(b) calls on the Gillard Labor government to immediately scrap this complex and inefficient tax.

I am pleased that the Western Australian Legislative Council has the opportunity in the thirty-ninth Parliament to consider this important motion as its first motion, because it has relevance for all Western Australia. I have a history in this place of moving motions that I have endeavoured to craft in such a way that they attract bipartisan support. For example, I refer specifically to the motion that called for an inquiry into the sexualisation of children and to the motion that sought to consider the resourcing of palliative care in Western Australia. I hope that we can consider this motion this afternoon in the same bipartisan spirit. I particularly hope that it attracts bipartisan support after considering the public comments made by Premier Barnett and opposition leader, Mr McGowan.

The way in which I would like this motion to progress this afternoon has, interestingly, something to do with a radio interview that I heard only just this morning. As I arrived at Parliament shortly after seven o'clock this morning, I was greeted by the sounds on the radio of an interview between Steve Mills from 6PR and the Prime Minister. The interview was taking place so that the Prime Minister could have an opportunity to sell yesterday's federal budget. As an aside, perhaps after 14 September the Prime Minister should not look to become a salesperson. Nevertheless, it was very interesting to hear an interaction regarding the level of funding for infrastructure for Western Australia as a result of the federal budget. The Prime Minister said she hoped that we in Western Australia would acknowledge that the level of funding for infrastructure provided by the federal government has exceeded that of the previous federal government. She also said, "That's the facts; that's the maths." I suggest that if that is the bar that we should use to consider these types of matters, particularly financial matters, I would be pleased for us to do that this afternoon as we consider this motion. When one considers the facts and the maths, to use the Prime Minister's words, one can only come to the conclusion that the minerals resource rent tax—or to introduce the acronym, MRRT—is a badly designed federal tax that has two targets: the first is the iron ore industry and the other is the coal industry. Of course, Mr President, you would be aware that the iron ore industry is one of the most important industries in Western Australia. The MRRT is in any measure a poorly designed tax. The inability of federal Treasury to get even close in its budget estimates to predicting actual revenue from the MRRT is a clear indicator that the design of this tax lacks the necessary features for it to be considered a key revenue measure.

In prosecuting the case in favour of this motion, I will outline 12 reasons that this tax should be scrapped. In the limited time I have this afternoon, I hope to elaborate on those 12 reasons. The first reason that the tax should be scrapped is because it discriminates against Western Australia. It is aimed specifically at the iron ore industry, as I said earlier. Interestingly, iron ore is a very important industry for Western Australia and a vital part of our economy. What is particularly interesting is that Western Australia produces virtually all—to be precise 97 per cent—of Australia's iron ore. It also produces one-fifth—to be precise 21 per cent—of the world's iron ore. Iron ore exports account for just over half—that is, 52 per cent—of all exports from Western Australia. In 2011, $63 billion of iron ore exports from Western Australia represented 29 per cent of the state's $217 billion economy. Clearly any tax that is targeted primarily at iron ore is of immediate and pressing concern to all Western Australians, and certainly to this house.

The second reason for suggesting that the tax be scrapped is that it was negotiated in secret by the Prime Minister and it caused an error. To particularise that, it appears that in the Prime Minister's enthusiasm to get the big mining companies to agree to a mining tax—any mining tax—she failed to follow normal negotiating procedures. The details of the tax were negotiated personally, exclusively and in secret by the Prime Minister, the federal Treasurer and the federal Minister for Resources and Energy. This personal, exclusive and secret negotiation took place with Australia's three biggest miners—namely, BHP, Rio Tinto and Xstrata. This process excluded all other relevant miners and state and territory governments. It even excluded commonwealth Treasury officials from the process. What is the outcome? Well, the Prime Minister and the federal Treasurer agreed to a mining tax that would require the three biggest miners to pay minimal tax.

This leads me to the third reason the minerals resource rent tax needs to be scrapped; that is, the three biggest miners pay minimal tax at best. Let us look first at Xstrata, which has paid no MRRT to date and has an unrecognised deferred tax asset of $11 billion to set it against any future MRRT liability. The second of these biggest companies is BHP Billiton, which had in 2012 a current deferred asset tax of $637 million and an unrecognised deferred tax asset of $13.5 billion. Interestingly, it paid an MRRT instalment of $77 million in 2012 and a further payment in 2013. Let us move now to the third of these companies, Rio Tinto. According to my notes, in 2012 Rio Tinto had a current deferred tax asset of $1.1 billion and an unrecognised deferred tax asset of $13 billion. It paid no MRRT in 2012, but has paid an instalment in 2013.

I well recall when I was running my own law practice that we had this pesky thing called PAYG—pay as you go—tax, which needed to be attended to. In the same way, payments of MRRT are made by way of instalments, and, just like those made by taxpayers, are subject to reconciliation when tax returns are finalised. There is no certainty that any of the moneys paid in instalments will ultimately be retained by the Australian Tax Office. They may well be refunded. The final result for 2012–13 will, of course, not be known until June 2014.

I move now to the fourth reason we should scrap the tax. The fourth reason is that the words of mining tax supporters ought to speak for themselves. The first mining tax supporter that I think we should consider is Dr Richard Denniss, executive director of the Australia Institute. He supports the mining tax; however, he was scathing in his comments to the Senate Economics Reference Committee on the design of the MRRT, as negotiated by the Prime Minister and the federal Treasurer, especially the provision that allows the current market value of a mine to be used as an allowance against MRRT liability. I will quote from page 6 of the committee transcript that I referred to, dated Wednesday, 3 April 2013. Dr Denniss explains —

> … when we allow the mining companies to value their investment at the new market price rather than the depreciated actual expenditure, we have already wiped out, for the taxpayer, most of the super profit because the super profit is now built into this new market price. So if the purpose of the superprofits tax is to collect windfall revenue for the owners of the resource—you and I—then to let the miner use today's valuation of their mine, rather than what they actually spent on the mine, as the base is an incredibly generous gift from us, the owner to them, the miner. So yes, I can't understand why they did it. If they understood what they were doing, I don't know why they did it, and if they did not understand what they were doing, they should not have done it.

Those are the words of one of the supporters of the mining tax and that is why I say that the fourth reason the tax ought to be scrapped is that the words of such mining tax supporters ought to speak for themselves. It requires no further elaboration by me.

I move now to the second such supporter of this scheme, Professor Ross Garnaut, nicknamed the father of resource taxation for his role in proposing and developing the concept, which began, interestingly, when he co-authored an article published in *The Economic Journal* in 1975. Professor Garnaut recently told the Senate Economics Reference Committee that the design of the MRRT was "inconsistent with the budget papers having shown a rather large amount of revenue in the early years". He explained how the MRRT provisions for deducting the market value from a mining project necessarily meant there would be no expected early revenue from either established mines or new mines. I want to quote from the committee transcript, this time from page 6 of 29 April 2013 when there was interaction between Professor Garnaut and Senator Mark Bishop, as follows —

> If you genuinely were allowing for a deduction for the market value of an asset, the current market value of those assets includes the value of the untaxed rent. If you are genuinely deducting the market value, almost by definition you are giving away the revenue from established projects. Whether or not you are in practice depends on the way market value turns out to be calculated in detail and I have not been able to see that. You advised me that even Treasury cannot tell you that yet. That is a reason you cannot expect early revenue from established projects, and from new projects. The structure of the resource rent tax is such that a new project is not meant to pay resource rent tax until it has recouped its investment with a reasonable rate of return. If the market-value deduction has shielded all past investments then, almost by definition, you do not expect early revenue.

At this point Senator Mark Bishop says —

> That analysis is arguably the intended design feature of the scheme, to allow new projects to come on time, to recoup their costs and to then, when they are returning high profits to the owners, to send a share to the Commonwealth. That is what we would call allowing marginal projects to go ahead, not impeded by inefficient or unnecessary taxation liabilities from the Commonwealth.

I might add that I thought it a reasonable interjection. Professor Garnaut then responds by saying —

> Whether or not that was the intention, I do not know. If that was the intention, it is inconsistent with the budget papers having shown a rather large amount of revenue in the early years.

Professor Garnaut then went on to explain that the MRRT may never raise any significant revenue and could not be fixed except in the context of a properly negotiated reworking of federal–state financial relationships. He says on page 7 of that same transcript I referred to earlier, dated 29 April 2013 —

> Your question was whether the tax in this form will ever raise revenue: It may not, especially because of two design features … The critical ones for these purposes are the shielding of past expenditure and the way in which that is done; and the interaction with state royalties. I think that is a very important issue, but I do not think we can fix it up except in the context of working it through as a matter of federal financial relations. It is important enough and difficult enough for us to deal with it properly, and I think that is the context in which it has to be dealt with.

As I conclude that particular fourth reason for why the tax should be scrapped, I might also make the observation that if there is to be any fixing up by way of federal financial relations, we might start with the goods and services tax first because I would have thought that it also meets the criteria Professor Garnaut has outlined. Being a very important issue, it needs to be fixed; it is important enough and difficult enough and we need to deal with it properly. For all those reasons I would have thought we would start there before we try to deal with this other fiasco.

Nevertheless, I move now to the fifth reason the tax should be scrapped and that is that even a company as significant as Fortescue Metals Group will not need to pay it for at least a decade. I elaborate by taking note of the evidence given in the Senate Economics Reference Committee by Mr Stephen Pearce, the chief financial officer for Fortescue Metals Group. He explained that FMG expected that it would not pay any MRRT for at least a decade. In particular, I quote from the same committee transcript that I referred to earlier, this time at page 8 in which Mr Pearce is recorded as saying that Fortescue does not expect to have any MRRT liability for at least the next five years. It calculates that it has a tax credit available of $3.5 billion, which would then kick in to offset any liability. The amount of this credit will increase because of the uplift of royalties and the bond rate plus seven per cent at compound interest. It is unlikely that Fortescue will pay any MRRT in the next decade. Mr Pearce also reported that because of the complexity of the MRRT it has actually cost FMG between $2 million and $3 million to prepare for the new tax over the last two years. At page 8 of the committee transcript Mr Pearce is reported as saying —

> Companies are not opposed to change; what we are opposed to is complexity and compliance costs in trying to do business. The best tax design will normally try to adopt simple principles. But to try to artificially calculate a revenue point that does not actually exist and to artificially allow deductions that do not naturally exist and have to be calculated is a very, very complex thing.

As I said, in the case of FMG, it has cost it $2 million or $3 million to deal with the MRRT in the last two years, even though it is likely it will not have to pay anything for the next decade.

I move to the sixth reason that we should scrap the tax, which is the cost to the small miners due to the complexity of the tax. The act in question is known as the Minerals Resource Rent Tax Act 2012 and it is 271 pages long. Its definition of terms defines some 150 terms. It is used in this long and complex tax that deals with iron ore and coal, as I mentioned earlier. This tax, which has so far failed to raise any significant revenue, by its very complexity imposes, in my view, undue disproportionate burdens on smaller mining companies in complying with their record keeping obligations. Following the implementation of the MRRT on 1 July 2012, the Association of Mining and Exploration Companies—AMEC—conservatively estimated that it has cost small emerging iron ore and coal miners and junior explorers, in addition to large multinational companies, at least $20 million in set-up costs and they will have an ongoing annual compliance cost totalling at least $2 million. Most of these companies will never have to pay the tax but still need to meet expensive compliance costs because of future contingencies such as viable discoveries or an acquisition with a larger company.

I move now to the seventh reason why the tax should be scrapped, which is that it is failing to raise any significant revenue. Let us just look at the budget papers from last year, not the ones from yesterday. I refer to the budget papers released on May 2012. Those budget papers, which were released only a year ago, stated —

> Net receipts from the MRRT are expected to be $3.0 billion in 2012–13, $3.5 billion in 2013–14, $3.2 billion in 2014–15 and $3.7 billion in 2015–16, which represent the net impact on receipts across several different head of revenue. These include the offsetting reductions in company tax (through deductibility) and interactions with other taxes.

That is straight out of the budget papers only a year ago. I ask members to keep in mind that that totals $13.4 billion over four years. That is what was estimated only 12 months ago. Interestingly, on 22 October 2012, the wonderful thing called the *Mid-year Economic and Fiscal Outlook* was released. On 22 October 2012, there was a downgrading of the expected revenue. The MYEFO states —

> Net revenue from the MRRT is expected to be $2.0 billion in 2012-13, $2.4 billion in 2013-14, $2.1 billion in 2014-15 and $2.6 billion in 2015-16, which represent the net impact on revenue across several different heads of revenue. These include the offsetting reductions in company tax (through deductibility) and interactions with other taxes.

Those keen mathematicians amongst us will know that that now totals $9.1 billion over four years. That was at 22 October 2012, yet on 8 May, which is a bit over five months earlier, it was proposed to be $13.4 billion. Suddenly $4.3 billion has vanished. It gets better. On 8 February 2013, the Treasurer, Hon Wayne Swan, released a memo from Treasury stating that the total of the instalments received for the minerals resource rent tax for the first two quarters of the 2012–13 financial year was actually $126 million.

Hon Liz Behjat: Not billion, million.

Hon NICK GOIRAN: That is right. Just in case Hansard did not get that, it is $126 million, which is not to be confused with “billion”.

With the third and final quarterly instalment for 2012–13 now received, the net revenue from the MRRT for this fiscal year was reported in the budget papers yesterday as $0.2 billion—that is, $200 million. This represents just 6.67 per cent of the revenue anticipated by the federal Treasurer in last year’s budget. A year ago, we thought that the cake was big and now it is only a very small slice of the action. It is very, very bizarre. Thank goodness these people are not running the state’s finances here in Western Australia.

The revenue that was projected for the four years—members will recall that I have outlined the projections for the four years—was also revised downwards in this year’s budget from last year’s ambitious figure of $13.4 billion. It has been revised to just $2.4 billion. It has been cut by 82 per cent. With this historical context in mind, can I politely conclude that this new projection of $2.2 billion for 2016–17, which is supposed to assist us in this country to return to a surplus in that far off year, is likely based on no more than wishful thinking. The much touted MRRT, with all due respect, is hardly a revenue raising success, less of which is to be said with regard to the success of the budget process.

I move now to the eighth reason that the tax should be scrapped, which is that we barely take a step forward once we factor in administration costs. The $200 million net revenue that has been raised to date needs to be offset by the cost of administering this new tax. On 3 December 2012, the Australian Taxation Office replied to a question on notice from the Senate economics committee’s supplementary budget estimates hearing, stating on 18 October 2012 —

> The operating cost of implementing and administering the new resource rent tax arrangements, including MRRT and existing and extended PRRT, —

That is the petroleum resource rent tax —

> is estimated to be $60.48m over the financial years 2010–11 to 2012–13.

In August 2011 the administration of the existing petroleum resource rent tax was integrated into the project team administering the minerals resource rent tax and the extensions of the PRRT. In answer to an earlier question, it was stated by the Australian Taxation Office that the annual cost for administering the then existing PRRT was $3.612 million for 2009–10. If we allow approximately $7.5 million for administering the existing PRRT for 2011–12 and 2012–13, it means that approximately $53 million has been spent by the ATO on administering the MRRT and the extended PRRT. The bulk of this is likely to have been spent on administering the new MRRT of course, so in effect the real net revenue that this great tax has raised for 2012–13 is more likely to be now only $150 million.

The ninth reason that this tax should be scrapped is that, in my view, Australians have been misled, particularly in respect of what this great tax was supposed to fund. The new tax, according to the Australian Labor Party’s website, was going to fund a major new tax break for Australia’s 2.7 million small businesses, as well as a cut to the company tax rate for all businesses, with small businesses getting a one-year head start. Secondly, it was to fund a boost to the superannuation funds of 8.4 million workers, which would increase the nation’s savings pool by $500 billion by 2035. Thirdly, it would provide a much-needed extra superannuation contribution for 3.6 million low income earners—people earning less than $37 000 a year; the Gillard government was to contribute an extra $500 to their superannuation savings each and every year. Fourthly, it was to fund critical investment in roads, bridges and other infrastructure, particularly in our great mining regions.

Sadly, because of the complexity of this poorly designed tax, the secret negotiations and all the other reasons I have already outlined, only $150 million has been raised for 2012–13. So what would this cover? It would cover a $55.55 tax cut for each small business; or a $17.85 contribution to each worker's superannuation; or a contribution of $41.66 to the superannuation of every low income earner; or we could build 30 kilometres of new roads in a mining region.

Of course, the only budget item that the MRRT is really contributing to is the federal government's $20.1 billion black hole. Members will recall that it was projected that we would be back in surplus this financial year, and that the surplus would be $1.1 billion. Instead, that yesterday apparently turned into a $19 billion deficit, so something has gone horribly wrong in the last 12 months. The $3 billion that was anticipated to be raised in 2012–13 was always, in my view, imaginary. As this financial year draws to a close, the truth is coming out.

I note that the WA Labor website has published a claim by the shadow Treasurer, Ben Wyatt, that the MRRT would provide $480 million towards the Gateway project. No doubt the member for Victoria Park is relying on the claim made by federal Minister for Financial Services and Superannuation Bill Shorten, in the second reading speech for the Minerals Resource Rent Tax Bill 2011, that —

> The MRRT will fund billions of dollars of new roads, bridges and other critical infrastructure, such as the Gateway project in Western Australia.

A couple of weeks ago, on 7 May 2013, federal finance minister Penny Wong announced that the promised increases to family tax benefit A, scheduled to come into effect, had been cancelled. The tax cuts were expected to be funded from the MRRT. I quote from the federal government document entitled, "Delivering a Stronger, Fairer Future", from May 2012. At page 4 the document reads, in part —

> Revenue from the Mineral Resources Rent Tax means that the benefits of the mining boom can be spread to every corner of our country. The Government will be providing an extra $1.8 billion in family payments to ensure this growth is shared with over 1.5 million families on low and middle incomes.
>
> From 1 July 2013, Family Tax Benefit Part A (FTB–A) will increase for all eligible families. Around 1.1 million families will benefit from an increase to the maximum rate of FTB–A of $300 a year for families with one child, and $600 a year for families with two or more children. Around 460,000 families will benefit from an increase to the base rate of FTB–A of $100 a year for families with one child and $200 a year for families with two or more children.

Interestingly, in February 2012 the federal Treasurer vehemently rejected any criticism directed at the federal government's linking of a volatile revenue source such as the MRRT to ongoing expenditures. I will read a quote attributed to the federal Treasurer in an article that appeared in *The Australian Financial Review* of 13 February 2012 —

> There are swings and roundabouts when you have a variable revenue stream… but …I don't accept that in an environment where revenue is adjusted depending upon variable factors beyond the forward estimates it is unsustainable to make the commitments we have made. They are entirely sustainable within the budget framework.

It appears not; they certainly were not sustainable, because they have in fact been abandoned.

I move now to the tenth reason why the tax needs to be scrapped. In my view, it interferes with this state's sovereignty over the minerals it owns. It is claimed on the Australian Labor Party's national website that the MRRT is needed —

> Because we know the mining boom won't last forever. The resources can only be dug up and sold once.
>
> These resources are owned by all Australians, not by the mining companies. So it's important that all Australians benefits from them.

However, the Labor Party also claims that the coal and iron ore in the ground are owned by the Australian people, and that we all know that these resources can only be sold once.

According to an article that appeared in *The Australian* on 8 February, federal Treasurer Wayne Swan asserted —

> Australians own our resources 100 per cent and when very big profits are made Australians are entitled to share in those profits and that is the purpose of the MRRT.

In my view, that is a most improper claim. The Western Australian Mining Act of 1978 provides that all minerals except non-precious metals in freehold land alienated before 1899 belong to the Crown in right of Western Australia. Where the minerals are the property of the Crown, a mining title must be obtained before any exploration or mining operations may be undertaken. The WA government, of course, has the sole right to allocate prospecting, exploration and mining titles for minerals. In Western Australia this is sought to be administered in the interests of all Western Australians and the development of the state as a whole. The MRRT is explicitly justified by the federal government on the basis of a false claim of ownership of these resources by the Australian people as a whole. This is, in my view, an unconstitutional claim with no legal basis. Claiming that one owns something that one does not own and treating it as if one did own it is a form of theft.

The eleventh reason that the tax should be scrapped is that the MRRT may well be unconstitutional. A challenge to the constitutional validity of the Minerals Resource Rent Tax Act 2012 has been brought by Fortescue Metals Group and other mining companies, with the states of Western Australia and Queensland intervening in support of the challenge. The matter was heard by the Full Bench of the High Court over the three days 6, 7 and 8 March 2013, and the court has reserved its decision. The main points of the challenge that I have been able to ascertain are that, firstly, contrary to section 51(ii), the MRRT discriminates between states or parts of states; and, secondly, contrary to the Melbourne Corporation principle, the MRRT prevents the states from properly administering their own affairs specifically because it neutralises the effect of any variation in state royalties by harvesting any reduction in royalties as MRRT.

That brings me to my twelfth and final reason why the tax should be scrapped; that is, it is manifestly bad for Western Australia. Regardless of how the High Court ultimately rules on the constitutional issue, it is clear that the MRRT directly attacks the ability of Western Australia and other states to use mining royalties to effectively manage economic development. Any reduction in royalties will not benefit a mining company, as the reduction in royalties will be directly offset by an equivalent increase in the MRRT liability. This effectively deprives Western Australia of a tool that has been used in the past to ensure the best outcome for the state as a whole in negotiating agreements with mining companies. Reduced royalties can be offered in return for investment by mining companies in infrastructure development. In particular, this can benefit particular communities and it can also benefit the whole state. However, the attempt by the federal government to muscle in on minerals as a new source of revenue through the MRRT has effectively gutted the value of reduced royalties for mining companies. At the same time, the GST equalisation process obliges Western Australia to collect royalties at least at the level of the national average; and, if it does not do so, it can suffer a loss in its GST share.

In evidence given to the Senate Economics References Committee, the Under Treasurer at the Western Australian Department of Treasury reported that when Western Australian Treasury officials raise these matters at commonwealth–state forums, the commonwealth's response can best be described as financial bullying. I will quote from page 38 of the proof committee Hansard of the public hearing held on Monday, 8 April 2013 by the Senate Economics References Committee in its inquiry into the development and operation of the minerals resource rent tax. In effect, the Under Treasurer stated that we should not raise royalties or —

> 'We'll get you somehow else'.
>
> …
>
> There are many financial flows to the states outside of GST distribution. They can be in the form of co-contributions to major infrastructure projects, for example. The implicit threat is if we were to exercise our state rights in terms of ensuring an efficient and effective royalty regime, and if that compromised the Commonwealth's financial position through MRRT, we would benefit less out of those processes.

Hon Mark McGowan, MLA, has stated on the public record that he supports the MRRT only if a fair share of the revenue raised is invested in infrastructure projects in Western Australia. I agree with him. The problem is that we can get a fair share of something only if there is something to share. As Sir Winston Churchill wisely remarked, "We contend that for a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle." I suggest that it is time for us to get out of the bucket!

Given the abject failure of the MRRT to raise any significant revenue so far and the complete lack of any commitment from the federal government to invest any revenue it might eventually raise into infrastructure in Western Australia in proportion to the share of the MRRT that is raised on iron ore projects in this state, I anticipate bipartisan support for this motion. I hope that members opposite will join me in resolving that this house congratulates the Barnett government for its strong and determined representations against the minerals resource rent tax imposed by the Gillard Labor government on iron ore and coal producers in Western Australia and other states, and calls on the Gillard Labor government to immediately scrap this complex and inefficient tax. With those words, I commend the motion to the house.

HON KEN BASTON (Mining and Pastoral — Minister for Agriculture and Food) [3.05 pm]: I have a few words to say on this motion. I think it is an excellent motion by Hon Nick Goiran. This morning a vegetable producers group came to see me, as one of the federal government's taxes has had an effect on this small business in Western Australia that employs some 40 people. The carbon tax has had an effect on this group; it has put its power bills up by $1 000 a month. That is just a small example of a grower who produces eight crops of lettuce a year on some 100 acres of land to supply the market requirements of Perth. That is just a small example of a business that has been affected.

I will go over a bit of the history of the minerals resource rent tax. The legislation came out of the flawed Henry tax review. It was pushed in 2010 by the then flawed Prime Minister, Kevin Rudd. It was introduced in July 2012 in a rush job by the world's greatest Treasurer! The tax was strongly supported by both the unions and the Greens, but it was opposed by just about everyone else. It was opposed by the state government because, unlike our colleagues opposite, we could see what damage the mining tax would do to our state. After the federal government had had some backlash about the tax, it changed it to the minerals resource rent tax. I will explain this tax, because even I had trouble getting my head around it. Let us look at the complex equation for the MRRT. The MRRT is set at 30 per cent of the super profit based on a bond rate of seven per cent, with projects eligible for a 25 per cent extraction allowance, plus state royalties being deducted and MRRT payments being deducted for company tax receipt purposes. It sounds simple enough! But it has failed because the definition of a good tax is a tax that is simple, efficient and productive. I do not believe that formula is simple at all; it has the least impact while raising the most amount of revenue. According to the May 2012 budget, the tax was supposed to raise some $3 billion. In October 2012, this was reduced to $2 billion. Yesterday it was announced that it would generate only around $200 million. I will quote from an article in today's *The West Australian*, which states —

> The Minerals Resource Rent Tax, which the coalition has pledged to scrap, will collect just $200 million this year, a tenth of what it was forecast last year, and $3.3 billion over its first four years, down from $13.4 billion … Australia's carbon price, forecast to reach $29 a tonne in 2015–16, now tipped to fall to $12 a tonne. That fall blows a $3.7 billion hole in revenue …

Most of the $200 million that I spoke of will come from the two big companies Rio Tinto and BHP Billiton Ltd. The federal government has basically come up with a double tax on Western Australia—a flawed and failed mining tax and a carbon tax on all Western Australian businesses. The motion calls on the Gillard Labor government to immediately scrap this complex and inefficient tax, or we could simply call for the Gillard government to bring on an early election, but I do not think either of those two is going to happen. As we saw in the recent state election, there were certainly no votes in new taxes in Western Australia and no votes for being linked to deeply unpopular mining and carbon taxes. The minerals resource rent tax is not the only high-cost tax that the federal government has hit WA with. The other one, of course, is the carbon tax, as I mentioned, which places pressure on small businesses. I note that off-road tractors and mining equipment are exempt from that tax. However, the majority of those vehicles are all on-road. This means that our major export industries are hit, with no way to offset the transport costs, and that, of course, relates to shipping, rail and air freight. It has been estimated that the average farm will incur costs of $1 000 a year. We have some 7 000 farmers in Western Australia, so a person does not have to be Einstein to multiply the figures to see what they come to. As I said, I met today with those loose-leaf vegetable growers. That was a really good example to start with, because I think that we could apply that to lots of businesses of that size right across the south west of Western Australia and north of Perth.

The history of the carbon tax is also worth tracing. It grew out of a deal with the Greens so that Gillard could survive the near-death experience of a Kevin Rudd challenge. It came into force on 1 July 2012. It is due to transition into a flexible price cap and emissions trading scheme in July 2015. The price is currently fixed at, I believe, $23 a tonne. Basically, the federal government got that wrong as well, just as it got how much it would raise from the mining tax wrong by a factor of 10. The federal government's carbon tax is five times higher than the current value of European carbon credits at $5. All this adds up to a perception for people who want to invest in Western Australia. Hon Nick Goiran talked about the iron ore industry and the mining industry, which is the backbone of not only Western Australia, but the whole nation. The area that I represent, the Mining and Pastoral Region, produces some 40 per cent of the nation's income, so any of these imposts will have an effect on it. Not only that; it is the perception that is created that Western Australia is not a place to invest. If we have a lapse in that investment in Western Australia in the future, we will pay for it in the sense that it will take a long time to fill up that hole because people are not going out, exploring and finding the minerals of tomorrow.

I commend Hon Nick Goiran for this motion. I am sure that the other side will support it as well and take that good-hearted approach that Hon Nick Goiran spoke of; that is, those opposite will also see that this is a tax that is not going well for the benefit of not only Western Australia, but all Australians.

HON NORMAN MOORE (Mining and Pastoral) [3.13 pm]: As a simple, humble backbencher, I had not intended to speak on this motion, but I sat here waiting for the opposition to respond and waiting for something to happen, and it did not. This is the great Australian Labor Party, the official opposition in Western Australia. We have a motion on what is probably the most significant issue facing the Western Australian economy at the present time. We heard an excellent speech by the mover of the motion, Hon Nick Goiran, supported by Hon Ken Baston, and the Labor Party is going to let it go by without even responding.

Hon Kate Doust: Has it gone to a vote yet?

Hon NORMAN MOORE: The reason I got to my feet was that I hoped that I might provoke those opposite into responding to this motion.

Hon Kate Doust: There are two weeks on this motion so what's the rush?

Hon NORMAN MOORE: I know, but the whole point of the matter, as the member well knows, is that if Hon Ken Baston had not got to his feet, the motion would have been put, in the absence of any response from the opposition.

Hon Kate Doust: How do you know?

Hon NORMAN MOORE: Because I watched members opposite. I have been here long enough to know what is going on. Anyway, I think it is fantastic that the Labor Party chooses not to respond to this motion because it is embarrassed. I do not blame members opposite for being embarrassed.

Hon Sue Ellery: You know, we will miss you; we really will miss you.

Hon NORMAN MOORE: I know the member will, and I am going to miss her too, but today I am missing the opposition's response, and that is why I am standing here provoking it, hopefully, into responding to this excellent motion moved by Hon Nick Goiran and to say to those opposite that they really do need, as an opposition looking after the interests of Western Australia, to stand up against this minerals resource rent tax and the extension of the petroleum resource rent tax, both of which are against the interest of Western Australians.

Hon Kate Doust: Your leader supports the petroleum resource rent tax; your federal leader wants to keep that and Joe Hockey wants to keep that.

Hon NORMAN MOORE: I do not care what he wants to do on this. All I am saying is that if the petroleum resource rent tax is going to apply to onshore petroleum in Western Australia, I am as opposed to that as I am to the minerals resource rent tax on minerals being mined in Western Australia. The federal opposition knows what I think about these things, but it does not always agree with me, which is regrettable in this case.

This tax came out of what I would describe as a thought bubble that the then Prime Minister Kevin Rudd happened to have one evening, I suspect, because he needed some money, and he knew he would need a lot of extra money to do all the things that he thought he would like to do. He saw these mining companies—BHP Billiton, Rio Tinto and Fortescue Metals Group—all making what he considered to be excessive profits. "Super profits" is how he described it. So, the thought bubble came down with the notion of a super profits tax on the mining industry—not just iron ore and coal, but every mining operation in Australia. He came up with this idea of a super profits tax to replace state royalties. That was what he had in mind, and he thought, "The states will go along with this because they're quite happy to give away their royalty revenues, so the commonwealth can have a super profits tax and the money will go into the federal coffers instead of the states' coffers." He thought that somehow the states would go along with that. How absurd! Kevin Rudd was a very clever politician who became the Prime Minister, but it was a really dopey proposition to suggest that the Western Australian government, for example, would somehow or other give away its mining royalties to the commonwealth so that the commonwealth could raise those taxes through a super profits tax. That was the fundamental, basic initial flaw of Prime Minister Kevin Rudd.

We all saw what happened when the mining industry decided that it would make its point of view that it was opposed to the tax and that it was outrageous well and truly known to the Australian community. Indeed, fundamentally, under the super profits tax, if a company made more than the existing bond rate as a profit, it would be taxed 25 per cent of what it made above the bond rate. Investors might as well put their money in the bank instead of taking the risks of going into an iron ore operation because they could get that sort of return. What it also failed to acknowledge was the nature of the mining industry. It is an industry that I have taken a great deal of interest in over many, many years. It is an industry that has its ups and its downs, and it has as many downs as it has ups. I have always taken the view that if a government is dealing with an industry that requires billions of dollars' worth of capital investment and it is selling into what can be reasonably fluky markets, the government has to take the good with the bad. Therefore, it has to recognise that there will be times when the mining industry is in the doldrums and does not generate a lot of revenue at all because there is no great demand for the products that it happens to be selling. On the other hand, there will be times when the mining industry is making a lot of money when there is significant demand, such as we have had from China in recent times for our iron ore and from other parts of the world for our coal. But that will not last forever, as we are seeing now with the slowdown in the mining industry. That is happening for two reasons: firstly, a lot of the construction is complete and we are going into production; and, secondly, the Chinese economy is subject to some speculation about its level of growth in the years going ahead. If it remains around eight or nine per cent, then there will be ongoing demand for our product. But at same time as this is happening, there is increased competition from other parts of the world; indeed, the Chinese government, through its state-owned companies, is spending a lot of money in Africa developing mining operations there as a counterbalance to the, particularly, Australian suppliers of iron ore. That is having an effect on the price we get for our iron ore, and at the same time, of course, the high Australian dollar is having an impact. Right now we are in a fairly flat period for the mining industry, and if the Chinese economy takes a bit of a downturn, there will be a very significant effect on the mining industry in Western Australia. I make these points to demonstrate that there are times when the mining industry is going very well and times when it is not; it is a very cyclical industry. We should not just wait for it to start making reasonable profits and then put a super profits tax on top of the taxes it already pays.

Mining companies, like every other business in Australia, pay tax on their profits, but on top of that they also pay royalties to the states. In Western Australia, royalties are not a tax; they are, in fact, a cost of doing business. The companies are paying the state of Western Australia to extract the minerals owned by the people of Western Australia. Hon Nick Goiran made the point very, very clearly—he is perfectly right—that the minerals in Western Australia belong to the Western Australian people, not to the people of Australia; indeed, the coal in New South Wales belongs to the people of New South Wales, the coal in Queensland belongs to the people of Queensland and the gas in Western Australia belongs to the people of Western Australia if it happens to be onshore or in state waters. So, the companies pay tax to the commonwealth on their profits, and they pay royalties to the states for the privilege of using their resources. They are paying squillions of dollars in tax and royalties right across the nation, and this notion that somehow or other because they are having good times, as they were a couple of years ago, we should just whack this super profits tax on top is just a complete misunderstanding of the nature of the industry.

What we saw, of course, was this massive public reaction to the super profits tax, and we then saw it morph into the minerals resource rent tax. But let me just make this point: I happened to be at the Prospectors and Developers Association of Canada conference in Toronto a couple of weeks or so after Kevin Rudd's announcement of the super profits tax; I also spent some time in Vancouver meeting with business groups to try to encourage Canadian investors to come to Western Australia and invest in our mining industry. That was the whole purpose of the exercise—it was a very busy trip, I might add. I spent a lot of time talking to people and they just looked at me and laughed. I said, "What's so funny? It's a great place, Western Australia, and a great place to invest." They said, "Whoever invented the super profits tax?" The Canadian President of the Treasury Board said that was the best news he had ever had, because all the money we were trying to persuade Canadian investors to put into Western Australia or Australia was not going to come over here with that sort of tax system. The Canadians were gleeful at the prospect of more investment in Canada because there was going to be less in Australia. They made it very, very clear to me and said, "Don't waste your time, minister, because if you have a federal government that wants to interfere in your industry in the way it is with this absurd tax, then we are going to go somewhere else with our money." Lots of other places in the world have iron ore, nickel, coal, gold, silver, lead and everything else that can be dug out of the ground; there is plenty of that around the world, not just in Western Australia or Australia.

As I said, the machinations of the federal Labor Party meant we ended up with a new Prime Minister, such was the response of not only the Australian people, but also the backbench of the Labor Party, which decided to give itself a new leader because of Kevin Rudd's absolutely stupid proposal to tax the mining industry. Julia Gillard then did a deal with the three major companies, and they invented a tax that met their own requirements. I wish the federal government would say to me, "Norman, let's sit down and we can work out how to tax your pension"! I could give it a really good idea, like I should not pay any, and it would say, "That's a good deal", because that is what the three mining companies got out of the federal government deal—a deal that meant they would not pay anything, or very little—and the Prime Minister told us that they were being sorted out.

We had an election, of course, and I handed out how-to-vote cards in Tom Price—a place where I have spent a bit of my life; a major mining town. I have spent a lot of time there during elections and so on, and the Labor Party always had far more people on the polling booth than we could ever fire, and they were enthusiastic in handing out the how-to-vote cards and doing all the things that have to be done. For this particular election they had one person for the whole day, and when somebody asked him how to vote I heard him say, "Take the other guy's how-to-vote card." That was the effect that that particular stupid tax had on a mining town that traditionally voted Labor. The people walked away from it, and Labor got about 20 per cent of the vote. That was the response of Western Australians to this absurd mining tax. Then we got the MRRT, and we have seen, as Hon Nick Goiran said, that it has been a complete failure from the point of view that it has not raised any money. I think it is good that it has not raised any money, because it is less of an impediment to attracting investment to Western Australia. The only concern I have is that somebody might go and fix it up and start extracting more and more funds out of these coal and iron ore miners, and indeed with the petroleum resource rent tax in respect to oil and gas.

I also have a further concern—it did not happen in this budget that I know of—which is that the government will say, "Why just coal and iron ore? Why not nickel, gold and everything else?" That has not happened yet, but I tell members what, if the Gillard government is returned to office, there is no doubt in my mind at all that it will return to the principles—if I can call them principles—of the super profits tax and extend it to all minerals. Then we will find even more outflow of investment in the Western Australian mining industry to places like western Africa.

It really worries me that there seems to be a very poor understanding at the federal Labor level—I hope it is not at the state Labor level—of the mining industry. It is risk capital, it is hard to come by, and there are huge risks attached to investing in the mining industry. Very few dollars invested in exploration ever deliver an operating mine. I have watched this as a minister, a member of Parliament and a citizen of Western Australia for many years. I have seen lots of money raised on the share markets to provide capital for small exploration companies to get out and have a go; most of them do not find anything. At the moment, the concern I have is that there is not enough investment now in Western Australian greenfield sites. Most of the investment in exploration now is in brownfield sites, which is just redrilling old sites that have been mined before. That is not good for the long-term future of our industry. We need to get companies raising capital and spending money in greenfield areas to find the new ore bodies. As a minister I used to frequently use the phrase that we have to find the mines of tomorrow today, because, as everybody knows, once a hole is dug in the ground and the ore body has been removed, that is the end of it. So, if another ore body is not found, that industry collapses. The companies have to keep working and working and working and doing more and more work through geological surveys and so on to find ore bodies that we can use to keep this industry going into the future. However, about two years ago, greedy governments in some parts of Australia wanted to kill the goose that laid the golden egg. The effect of that, plus the downturn that is happening now, is the flight of capital out of Australia to others parts of the world. That will be to our long-term disadvantage. If that money is not being spent on exploration here, where will the money come from? We have to nurture the mining industry to keep it strong. As we just heard, Western Australia's mining industry produces about 40 per cent of the nation's export earnings. The value of Western Australia's resource sector last year was $106 billion. It is a very, very significant part of our economy. In fact, it probably saw us through the global financial crisis to the advantage of the Australian nation. We must get rid of this "smart" idea that began with a thought bubble from Kevin Rudd and that morphed into the minerals resource rent tax, which is a dud of a tax. We must get rid of it to provide confidence in the mining industry and for the investors who put money into the Western Australia mining industry that it is, indeed, a good place to put it. Mining companies can pay taxes like everybody else without the expectation that a government will bring in a super tax because it is thought that they are making too much money. I watch the banks announce their profits every six months. I do not know what a super profit is. A so-called super profit is a very subjective assessment. The federal government has decided that BHP and Rio are making too much money, which is a subjective judgement. I sometimes think the banks make too much money. That is my subjective judgement. It crossed my mind at the time of the super profits tax for the mining industry that the federal government should introduce a super profits tax for the banks.

Hon Col Holt: They should sit down with the ANZ and the CBA and work it out!

Hon NORMAN MOORE: The member is spot on! We could create one. We will get the banks together and sit down with the Prime Minister, Wayne Swan and Martin Ferguson to work out one that does not deliver anything and then tell everybody we are taxing the banks. That will not happen.

I hope the opposition responds to this motion and I hope it supports it. The state opposition of Western Australia knows as well as I do how important the mining industry is to Western Australia. It also knows how important the petroleum industry is to Western Australia. I will make a few comments about petroleum because although it is not in the motion, it relates to the same thing. Western Australia has about 140 trillion cubic feet of gas reserves, most of which are in offshore locations in commonwealth waters. The Western Australian government gets no return on that gas. The commonwealth charges a PRRT on offshore gas and a tax on profits and the state does not get any royalties because the gas belongs to the commonwealth—with the exception of the North West Shelf. Those royalties are shared because of a historic deal between the commonwealth and the state. Western Australia has onshore an estimated 288 trillion cubic feet of shale gas. That is about double our offshore reserves. To put that into context, Western Australia currently produces about one trillion cubic feet of gas per annum, which is for domestic consumption and offshore liquefied natural gas exports. We believe that there is 288 years of gas at current consumption rates in Western Australia as shale gas, most of which is in the Canning Basin but, importantly, a lot of it is also in the south west of Western Australia. There are all sorts of dispute going on about that and whether we should allow fracking and all that sort of nonsense. If that gets a serious head of steam in Western Australia, we will deny ourselves energy security virtually forever. I trust that that will not get out of hand and that the Greens (WA) will not continue to run the crazy campaigns that they do over some of these environmental issues. The point I make here is that the commonwealth is now extending the PRRT to onshore gas in Western Australia. There will be a PRRT on our gas and a MRRT on our coal and iron ore—it is mainly iron ore because we do not have not much coal in Western Australia; in fact, we export virtually nil. In effect, the commonwealth of Australia is bringing in a royalty system on top of the state royalty system. From the state's point of view, it will charge a royalty on the onshore shale gas. The state will get revenue from onshore gas that we do not get from offshore gas, which is why I want that industry to go ahead. It will benefit Western Australia. The commonwealth comes in as it does, and as it has done with the minerals resource rent tax, to take a slice of the onshore gas. There is a good argument that the MRRT and PRRT are in fact royalties because they are rents paid on a product owned by somebody else. I am interested to learn whether the High Court decision deems it unconstitutional for the federal government to charge rent on a product that does not belong to it. As we heard earlier, it belongs to the people of Western Australia. The avaricious federal government continues to tax the state of Western Australia; indeed, we are the main jurisdiction being taxed by the MRRT and, ultimately, the PRRT. When the super profits tax was announced, the federal government said it wanted to spend it on a super railway system in Sydney. It wants to send this money across to the other side of Australia. That already happens with the GST carve up and on top of that it now wants to tax the successful industries that generate our royalties. The way it redistributes the GST takes away a significant proportion of our royalties and they are sent to other parts of Australia. As Hon Colin Barnett said, we send it off to the national park of Australia—poor Tasmania. I do not have a problem with Tasmania wanting to be a national park so long as it is doing its best to generate economic growth to create some wealth for those who live there instead of sitting around waiting for the money to come across from Western Australia. I should not say the same applies to South Australia because I know the South Australian minister for mines is trying hard to get the mining industry up and running. But he keeps bumping into green people, which tends to make it harder to get the mining industry going.

I am looking forward to hearing the Labor Party's response to this motion. I would like it to tell us what it thinks about its federal government's tax. I can say in all sincerity that if a federal Liberal government had brought in a MRRT, I would have been the first to put my hand up and say that I did not support it. We are allowed to do that; I hope the opposition is allowed to do that today. If it is allowed to do that, let us hear it.

HON BRIAN ELLIS (Agricultural) [3.38 pm]: I, too, was expecting the opposition to speak on this motion.

Hon Kate Doust: I am very keen to hear what you all have to say about it before I rise to respond.

Hon BRIAN ELLIS: I am keen to see whether the member is going to defend the MRRT. Obviously no opposition members agree with it.

I have a small contribution to make on this very important motion. I congratulate Hon Nick Goiran for bringing it on. As has been pointed out, it would have to be one of the few occasions on which I find it easy to attack a tax. We come from a strong position given that the tax does not raise much money, if any at all. Why would the federal government bother?

On 14 February 2013, Western Australian *Business News* reported Prime Minister Julia Gillard as saying that the federal government had no plans to change the design of its mining tax. This is the same Julia Gillard who said that she would not be challenging Kevin Rudd for the leadership. This is the same Julia Gillard who said there would be no carbon tax. This is the same Julia Gillard who promised families tax cuts of $1 000, and it is also the same Julia Gillard who promised to bring in poker machine reform. It is no surprise that what she reportedly said on 14 February this year is completely different from what the *Daily Telegraph* reported on 13 May 2013. It stated —

> The Daily Telegraph understands that Assistant Treasurer David Bradbury will announce that the government will strip the largest miners of the right to claim an upfront deduction that allows them to claim the cost of exploration of smaller mines they take over.

What would prompt such a change of mind on the part of the Prime Minister and the federal Labor government? Could it be that the forecast from the parliamentary budget office showed that the tax was expected to raise just $800 million this year, less than half of what the government was predicting towards the end of last year? Worse still, an article in *The Australian* today states that the latest forecast predicts that the revenue will be only $200 million. It goes on to state —

> In 2015–16, when the budget papers show a small surplus, the MRRT is to collect only $1.4bn, highlighting the risk to the surplus from a single volatile tax.

Could it be that Labor's mining tax, launched with such fanfare as a Robin Hood tax to take from the rich and to help the needy, is flawed?

Hon Kate Doust: Does the member have a problem with helping the needy?

Hon BRIAN ELLIS: This tax is certainly not helping too many people at the moment because it is not raising anything.

The DEPUTY PRESIDENT (Hon Alyssa Hayden): Order, members! We were playing so nicely. Can we please continue?

Hon BRIAN ELLIS: The article also states that the coalition says that the tax —

> … discourages investment, is too complex to administer and raises a fraction of the revenue claimed.

It certainly seems that way when the Gillard government had been bragging about raising $3.3 billion this financial year. Could it be that the *Daily Telegraph* was right in saying that the government was considering a rule change to force big miners to claim the cost of depreciation rather than an immediate deduction?

Speaking to Tim Palmer on the ABC's *PM* as recently as 8 May, Treasurer Wayne Swan blamed slumping commodity prices for the drop in the mining tax revenue. However, regardless of commodity prices, the big mining companies had enough tax offsets stored to see them pay none or very little federal mining tax for the next couple of years. According to *PM*, Hancock Prospecting's 2012 financial report showed a mining tax credit worth well over $1 billion. It went on to state that the anaemic returns from the mining tax can also be explained by Fortescue's tax credit of almost $3.5 billion, and likewise BHP and Rio Tinto with tax credits worth nearly $650 million and more than $1.1 billion respectively. Worse still, according to resource analyst David Lennox during the same ABC program, these companies are so stocked with credits that they do not expect to pay any mining tax under the legislation over the next few years.

Business reporter Michael Janda told ABC listeners that the big form iron ore producers have total mining tax credits of almost $6.4 billion. No wonder the MRRT has been linked to the shortfall in the federal budget, which was mentioned to be something like $19 billion. As much as $11 billion of the shortfall has been directly attributed to the MRRT.

Jeffrey Knapp, an accounting lecturer at the University of New South Wales, agreed with Janda and said —

> Over future periods they're entitled to deductions because the values of their assets for tax purposes are deemed to be higher than the book they use of their assets in their financial statements.

Giving evidence in Perth to a senate committee inquiry into the MRRT, *The West Australian* of 9 April 2013 reported Under Treasurer Tim Marney saying —

> … mining royalties generated from the State's resources were "a State issue".
>
> He warned against any amendment to provisions that provided for State mineral royalties to be fully credited to miners also liable for the MRRT.
>
> …
>
> "It's not the Federal Government's resource to tax, so that's a fundamental issue."

As mentioned by Hon Norman Moore and Hon Nick Goiran, it is the state's resource.

The West Australian also reported that Mr Marney said —

> … Treasury feared the lower than forecast MRRT revenues would lead to a rethink of the design of the tax for the worse.
>
> …
>
> He even went so far as to refer to it as —
>
> … "essentially financial bullying" …

Mr Marney's comment that it is not the federal government's resource to tax is interesting in light of Fortescue Metals' challenge of the MRRT. Fortescue argues that it is unconstitutional. In explaining the challenge, University of Melbourne professor Michael Crommelin wrote on *The Conversation* website on 8 March 2013 that it —

> … centres around the argument it breaches states' rights under Australia's constitution.

He went on to say —

> Two major arguments have been put forward. The first is that the tax is unconstitutional interference by the Commonwealth with important state functions. The other is really a design argument: that a

> particular feature of this tax breaches a provision of the Constitution that prohibits the Commonwealth, in the exercise of its taxation power, from discriminating among the states.

The provision in question allows mining companies to obtain a full credit against the MRRT liability for state royalties they have paid. As royalties differ from state to state —

> The argument is that in allowing full credit against MRRT liability for different state royalties the MRRT Act discriminates between states, because a mining company gets a bigger credit for royalties paid in Western Australia (where royalties are higher) than it would if the same operation were conducted in Queensland.

Professor Crommelin then went on to explain the second argument in the High Court challenge, which is based on the principle established in the Melbourne Corporation Case of 1947. This comes back to Tim Marney's assertion at the senate committee that the resources subject to MRRT—iron ore and coal—are the property of the states in which they are located. This argument is supported by the Attorneys General of Western Australia and Queensland. What can we conclude from all this? I believe we can conclude that the federal mining resource rent tax is a shambles. No wonder the federal Liberal Party has vowed to scrap it at the next election.

Hon Kate Doust: Only part of it; get your facts straight.

Hon BRIAN ELLIS: No wonder former resources minister Martin Ferguson revealed that he almost resigned from cabinet over the bungled tax.

To come back to my opening remarks, on 14 February 2013 the *WA Business News* reported Prime Minister Julia Gillard as saying that the federal government has no plans to change the design of its mining tax. On 4 February 2013, just over a week before Ms Gillard's assertion that no changes were planned, the *Australian Financial Review* reported that the federal Treasury secretary, Martin Parkinson, had proposed a meeting between state and territory Treasury department officials to discuss the design of the mining tax. The report was based on a letter obtained by the *Financial Review*. According to the *Fin Review*, potential changes supported by the federal Treasury include imposing penalties on states that increase royalty rates and/or reducing state royalties on iron ore, coal and petroleum by about one-third in exchange for other commonwealth grants. However, a month later the new Minister for Resources and Energy, Gary Gray, ruled out any changes. The left hand and the right hand just do not seem to know what each other is doing.

As if that is not enough, the article went on to state that last month the government went on to release advice from the Australian Taxation Office and the Australian Government Solicitor that disclosing the mining tax collections would breach secrecy provisions. What a mess!

The federal budget was handed down last night and to my understanding *The Daily Telegraph's* predictions of changes to the MRRT were not forthcoming. Despite her credibility history, should we have faith that our Prime Minister has not changed her mind, or should we perhaps think that with a predicted unwinnable election for Labor only a few months away, the Labor Party has realised that the MRRT will not be its problem?

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [3.52 pm]: I must say I think it is quite amusing that here we are on our second day back after a six-month break, and the government has moved a motion, but is reluctant to get people to their feet and expects us to leap to our feet after the first speaker and provide a response. We are not the government; we are the opposition. I expect that my job as lead speaker is to listen on behalf of the opposition to what everyone else has to say about this motion, given the government members are very passionate about this issue and want to put on the public record their concerns, as we heard Hon Brian Ellis read from his speech. I would have thought it would be better for me to wait and listen and gather all the salient points that the government was making and then get to my feet, rather than be rushed.

Several members interjected.

Hon KATE DOUST: I do not take to being bullied by anyone, certainly not members of the government bench. I know that it is difficult for a new government Whip, but when you come over here and say that you have one speaker and all these other people leap to their feet, it puts your credibility at risk, my friend.

I will say that this is a wonderful opportunity because I would have been reluctant to leap to my feet and put our position after having heard only Hon Nick Goiran without having the opportunity to listen to Hon Norman Moore talking for perhaps one last time about a subject which we all know he is passionate about and on which he is probably one of the most knowledgeable people in this chamber and in the Parliament. When he leaves, there will be a huge gap on his side of the chamber and quite possibly in the Parliament due to his corporate knowledge about the mining sector. I wanted to say that. This might be my only opportunity during this week before he departs this chamber next Tuesday night at midnight when his term expires.

Hon Norman Moore: At close of business at midnight.

Hon KATE DOUST: I am not too sure whether he has broken it to the Leader of the House that we might not finish until midnight, the actual formal end of his term, but maybe that is something he might want to plan for!

Hon Peter Collier: Already established.

Hon KATE DOUST: I imagine it is in quite clear terms. It would be remiss on our part to deny Hon Norman Moore the opportunity to share, for one last time, his view with us on this matter. I have realised in my short period here that it has always been very healthy to listen to Hon Norman Moore when he is on his feet, quite often putting a contrary position to that of his party, even when in government. I have always quite enjoyed that, even today when I listened to him put his position, as did a couple of the other members who have spoken. Whilst the minerals resource rent tax might not be perfect, it will be interesting to see, with the potential change of government, whether Mr Abbott and Mr Hockey really want to remove these taxes. They have already changed their position on the petroleum rent tax. Let us wait and see what happens in the next four months.

I want to put on the public record that it has been a very interesting and educational experience working in this chamber with Hon Norman Moore. I am sure there will be times over the next term when some of us will wish he was back here and some of us will refer to him in our debates.

Hon Norman Moore: I can guarantee I won't be one of them!

Hon KATE DOUST: I only hope Hon Norman Moore's very good wife, Lee, who we all respect —

Hon Sue Ellery: Enormously.

Hon KATE DOUST: — has an extremely long list of tasks for him to complete around the home. She has been waiting 37 years for him to be at home to do them.

Hon Norman Moore: That's why I'm getting another job!

Hon KATE DOUST: I am sure that with the kind of debate we have had today, given his strong connections with the mining sector, they will well and truly be banging on his door to provide him with ample opportunity to serve on a board or take some other sort of employment so that he can continue to be a voice in the Western Australian community and industry for the mining sector. It is interesting when these types of debates come up, particularly as we are four months out from a federal election. I thought it was quite interesting that this type of motion should be the first motion that the Liberal government would want to debate—rather than a state-based issue or an issue about how this government has broken its promises since the election and how it will not fund its election commitments

Several members interjected.

The DEPUTY PRESIDENT (Hon Alyssa Hayden): Order!

Hon KATE DOUST: Members opposite wanted to hear me; they wanted me on my feet. I have another 39 minutes and I will take every second of that time, be it today or next week. Unfortunately, Hon Norman Moore will not be here next Wednesday afternoon to hear me complete my remarks.

Several members interjected.

Hon KATE DOUST: He might have the DTs and come back.

Hon Sally Talbot: He'll be watching online.

Hon KATE DOUST: He will not be watching us online because during his time here he has not mastered the necessary skills.

Hon Norman Moore: I do know how to watch it on the screen. I've been watching question time. It's interesting.

Hon KATE DOUST: Well done; that is great. I am really pleased about that.

Hon Sally Talbot: Now we just have to teach Ed Dermer!

Hon KATE DOUST: That is right. This government wants to talk about what the feds are doing. What are they doing with the MRRT? What will they be doing in a few months? They do not want to talk about what their party is doing. We have already discussed how their party has slipped away from firm opposition to this tax and said, "Well, we don't want that bit but we'll certainly keep the other bit from the oil and gas sector." Let us see what happens.

Members opposite are not prepared to talk about their own broken promises from the election or about how they will find the money for the commitments they have made or about their cost-cutting exercises, which will have an impact on services delivered to our Western Australian community, or about the fact that here we are on our second day in this chamber and we do not have any legislation. They will not talk about the fact that in the third week of Parliament the other chamber is only just starting to introduce legislation. The government won its second term at the election on 9 March but is not prepared. There is no legislation and the government has no vision for the state. What does it want to do? It wants to talk about what we will do about the federal government.

Hon Liz Behjat interjected.

Hon KATE DOUST: If members opposite let me get through this, I will talk about that later. It is interesting that this government does not have a vision, a view or any answers to how it will address the concerns of the people in Western Australia right now. I refer to those people who cannot get a home or are having problems getting a job or finding it tough to pay their bills. We do not hear that type of discussion from the government. All we hear from the government is that it is really hard, that it is trying to do its best but just look at the dreadful things the feds are imposing on us. The government is not looking after the people in this state. Call me cynical, but I question why this has happened.

Hon Nick Goiran knows that I hold him in high regard. I think he is an exceptionally talented and very intellectual young man. I am amazed that he is still parked in the same seat on the back bench. I for one am personally disappointed on his behalf —

Point of Order

Hon PETER COLLIER: The member has been on her feet for about 10 minutes and has not mentioned the topic of the motion whatsoever. I ask that she be brought back to the motion.

The DEPUTY PRESIDENT (Hon Alyssa Hayden): I hear what the Leader of the House is saying but I do not think it is a correct point of order. I am sure that Hon Kate Doust will get back on track to the motion.

Debate Resumed

Hon KATE DOUST: Thank you, Madam Deputy President. I was on track. If the Leader of the House had actually been actively listening, he would have heard me refer to the minerals resource rent tax and the petroleum resource rent tax when I talked about how the federal Liberal Party supported the PRRT but not the other part of the tax. They were my initial comments that I have referenced a couple of times. As I told the Leader of the House, I now have 36 minutes and 23 seconds. This is a slow warm-up to leading to my reasons for our view of the motion. I will get to the point and continue to come back to it.

I was just saying how disappointed I was for Hon Nick Goiran. He framed the motion that the Liberal Party is so passionate about regarding the tax that the federal government introduced a few years ago. It is a shame that Hon Nick Goiran is not sitting on the front bench because I think he would do an excellent job. Let me reassure him that the Labor Party is in his corner. If we can do something in the Liberal party room to help get him over the line, we certainly will.

I am cynical when I see a motion like this come before us. Let us face it, the government will not get bipartisan support for congratulating the Barnett government on most things. I cannot think of anything to congratulate it for.

Hon Sue Ellery: For its record number of broken promises.

Hon KATE DOUST: That is right. We congratulate the Barnett government for its record on broken promises. That is a good thing!

I will explain in detail why we will not agree to this motion. We have seen motions like this over time, usually in the lead-up to a federal campaign. As I said, I can get cynical about these things, just as I am sure Hon Norman Moore would have been when he was sitting on this side of the chamber and the then government moved a similar motion. Members must ask whether this motion is about government members getting on their feet so they can demonstrate to the mining sector that they are still on tune. We all know that mining is a vital industry to this state. We also know that there are booms and busts. Hon Norman Moore, who was a very good mining minister, is correct that we should always be looking for new opportunities in the mining sector. When this tax was introduced, it was not just a thought bubble of Kevin Rudd; it came out of a formal committee headed by Don Argus, which made a range of recommendations.

Hon Norman Moore: That was the MRRT, not the super profits tax.

Hon KATE DOUST: It was not just a thought bubble; let us just get that right. There was a whole process that underpinned the legislation that went through. When I think back to that time and the 2010 election, I remember the vehemence and outcry from organisations such as the Minerals Council of Australia, the Association of Mining and Exploration Companies and particularly mining companies such as Fortescue. I remember the rallies and Julie Bishop and a number of others leading the charge on television. I also remember the $7.3 million raised for the Liberal Party to assist its election campaign. I know that the money from the mining sector has continued to roll into the Liberal Party's coffers, be it state or federal. I am pretty sure that we have seen this Liberal government returned as a result of the very diligent Liberal Party director who has invested that mining money donation and used it to get this government over the line again. I get very cynical about how government members try to persuade us to support this government to pull back the MRRT and be critical of the Gillard government. I will not be critical of the Gillard government in this regard. Although sometimes it might not effectively communicate all of its policies, I think it has put a lot of positive changes in place for all Australians. Today there was a good example of that when the Prime Minister, Julia Gillard, read into federal Parliament the National Disability Insurance Scheme legislation, which will be life-changing for an enormous number of families across the country. That is just one example of the many positive things that the Gillard government has done.

I certainly will not agree with the part of the motion that calls on the Gillard government to scrap the complex and inefficient tax. Members opposite talk about wanting to congratulate the Barnett government for trying to put pressure on the federal government, but he has failed. He has failed on the GST. Let us just imagine that Tony Abbott becomes the next Prime Minister. He will not give back to Mr Barnett any more of the GST that Mr Barnett has been asking for. Given the comments made by the shadow federal Treasurer, Joe Hockey, a future federal Liberal government would keep the PRRT part of the tax in place. It will not budge on that. I am of the firm view that as we get closer and closer to the federal campaign and the election on 14 September, we will find the federal Liberal leader change his tune on the MRRT. Did I mention that, Leader of the House?

Hon Peter Collier: For the second time.

Hon KATE DOUST: It was not the second time. The Leader of the House needs to listen more carefully.

It is always interesting when taxes are in place and there is a change of government to see whether the incoming government bites the bullet and cuts the tax. Tony Abbott might feel that he has an obligation to the mining sector and he might take that step, but we will not know until 15 September if he becomes Prime Minister. There are a lot of challenges.

We can be very cynical about why these motions are moved, because this government does not want to deal with local matters that are impacting on families on a day-to-day basis. The government wants to use this time to slap the federal government around. Hon Nick Goiran referenced the Senate Economics References Committee's report into the development and operation of the minerals resource rent tax that was tabled last week. Unfortunately, I have not had time to read that report in detail but I know that, given the composition of that committee, it became a highly politicised inquiry. I was in and out of the chamber and I know that Hon Nick Goiran quoted Senator Mark Bishop, and they were selective quotes because I sourced an online article from *The Australian* of 6 May about that particular report, with the heading, "MRRT should be scrapped: coalition". It states, in part —

> Deputy chair Mark Bishop said the majority report was an intensely political document and it did not reflect the facts presented to the committee.
>
> "The majority report was designed in haste, drafted in isolation, inconsistent with the evidence, flawed in approach and unhelpful to any serious players in the mining industry," the West Australian Liberal senator said.

It should be Western Australian Labor senator; he would be horrified! The article continues —

> NSW Labor senator Doug Cameron said the coalition senators had accepted with little scrutiny the submissions of the Minerals Council and mining companies.

We know that the Minerals Council of Australia has been extremely active in its opposition to this tax. It has spent hundreds of thousands, if not millions, of dollars in its campaign, which has included full-page advertising, radio ads and TV ads; I think I saw a TV ad recently that was still pursuing this issue. It has obviously been canvassing the matter through industry and a range of members of Parliament. It is an extremely powerful lobby group, and obviously one that the Liberal Party, at both state and federal level, is very keen to keep onside. When it comes down to talking about these issues, the opposition will not agree to the detail of this particular motion.

The Leader of the Opposition has been quite clear in his views on these issues, and he was challenged about them on a number of occasions in the lead-up to the last election. I will quote the Leader of the Opposition directly so that there is no misunderstanding, because I know that a lot of misunderstanding and misinformation is pumped out by members on the government bench about the detail of this tax and people's views on it. I refer to an article by Natalie Gerritsen that appeared in *The Australian Financial Review* on 13 February 2013, with the very misleading title, “McGowan backs away from MRRT”. It states, in part —

> West Australian Labor leader Mark McGowan says he will support the federal government’s mining tax only if the state gets a fair share of the proceeds.
>
> “The most important reform to the mining tax is to ensure that the states that produce the revenue get their fair share,”
>
> …
>
> “The first thing I’d do [if elected] is go to the commonwealth government, whoever it may be, and say you need to reward Western Australia better.
>
> “If they said no, then be that on their head. I wouldn’t support it, whoever the prime minister was.”

I do not actually think Hon Mark McGowan, the state leader of our party, is all that far away from Hon Norman Moore in terms of wanting to get the best deal for Western Australians out of this tax. Who would not want to see more money flowing back into Western Australia? I would have thought that was a no-brainer. He has been quite clear in saying that Western Australians should get their fair share out of this tax.

The Leader of the Opposition has also been quoted in a range of other articles, including the *Weekend Courier*, a local Rockingham paper, on Friday, 8 March, to say that WA Labor would support the tax “only if WA gets back the exact share it puts in”. He was attributed with the same types of comments in the *Business News* of 14 February 2013. He has been fairly consistent. There are articles that have appeared in *The Sunday Times* in which he is quoted as saying the same thing. In fact, in an article that appeared in *The Sunday Times* on 22 July 2012, he was quoted as saying —

> “I will support it if the infrastructure fund is distributed according to contribution (of mining companies). We pay 50 to 60 per cent of the mining tax. So the infrastructure fund should come back to the state in accordance with that.”

I do not know how much clearer we can get.

Hon Nick Goiran: Is that happening?

Hon KATE DOUST: I do not know. Perhaps if I had a little more time than just last night, I might have been able to come back to the member with that. We never know; I might be able to do that and continue my remarks next week, because I think I still have another 23 minutes to go.

Debate interrupted, pursuant to standing orders.

[Continued on page 549.]

Sitting suspended from 4.15 to 4.30 pm