STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 26 AUGUST 1998

Hon Mark Nevill (Chairman)
Hon E.R.J. Dermer
Hon Muriel Patterson
Hon Simon O'Brien
Hon Bob Thomas

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The CHAIRMAN: Have you read the "Information for Witnesses" sheet?

Mr SAVELL: Yes.

Ms HALSEY: Yes.

Mr GORE: Yes.

The CHAIRMAN: Do you understand the meaning of Standing Order No 330?

Mr SAVELL: Yes.

Ms HALSEY: Yes.

Mr GORE: Yes.

The CHAIRMAN: You will receive a copy of the transcript of this evidence. You can correct errors of fact but not the substance, and return the transcript to be processed.

This matter was referred to the House after the passage of the Revenue Laws Amendment (Assessment) Bill. Subsequent to its being referred, Parliament was prorogued. It has fallen off the Notice Paper and has not been restored, but the committee has decided to proceed with the inquiry. Did the State Revenue Department or any other government department consult the Association of Mining and Exploration Companies about this change to the Stamp Act? Did they consult the association about the revenue they expected to raise and the effects on the mining industry?

Mr SAVELL: No, they did not.

The CHAIRMAN: Please outline your concerns and detail any extra costs that may have been incurred as a result of this change to date or what you think may happen.

Mr SAVELL: I thank the committee for the opportunity to outline the association's position. This whole sorry business has been marked by what I would call misinformation and a lack of consultation. This organisation's membership comprises 80 mineral exploration and mining companies, about 100 associate member companies that supply goods and services to the industry and about 50 professional members. They are all vitally involved in the mining industry in Western Australia, throughout Australia and overseas.

When the association became aware that the Government intended to enact legislation to remove the exemption for chattels on the transfer of mining properties within the terms of the Stamp Act, it wrote to the Premier to express its concerns about the Revenue Laws Amendment (Assessment) Bill 1998, which proposed that those arrangements would be altered. The letter to the Premier is available to the committee and I table it.

The association expressed particular concern about the blanket exemption of agricultural industries from the revised stamp duty provisions. Rather than creating a level playing field, it was obviously a revenue raising measure aimed directly at mining companies. It was pointed out that while AMEC concedes that Government has the power to determine rates of taxation that might be applied to the community, including stamp duties, it believes that on this occasion the Government has departed from the principle of procedural fairness in exempting farming land specifically from the duty while taxing all other land transfers. To embed such a precedent in taxation law is undesirable as it would institutionalise discriminatory treatment of one industry as opposed to any other industry. The letter also highlighted the additional costs mining companies were likely to incur as a result of the stamp duty chattels exemption should they be restructured.

At that time the association was reduced to using a typical example. It will impact differently on different transactions because obviously the chattel component will be different in different situations.

As members are aware, in recent times falling metal prices and a host of other factors have precipitated widespread rationalisation in the mining industry, and that is a market-driven force. That has included numerous company takeovers and corporate restructuring.

In its submission to the Premier, the association included the following typical industry example that served to illustrate the manner in which removal of the chattel exemption on land transfers was expected to impact negatively on the mining industry. The association used a typical sale of a $15m mining project - which in our industry is a small transaction - wherein $10m comprised the mineral tenements and $5m the moveable plant and equipment - that is, chattels, which can include many things. Prior to the removal of the chattels exemption, stamp duty payable on that transaction would have totalled $420 525. After the removal of the chattels exemption, by projecting that effect, coupled with the recently introduced 12 per cent increase in the stamp duty rate, the stamp duty payable on the same transaction would have been $722 305. It was anything but a small impact on the costs to the industry in those transactions.

The CHAIRMAN: What is the increase - $300 000?

Mr SAVELL: It is a 58 per cent increase in the stamp duty payable on the transaction. It is the difference between the $420 525 and $722 305; it is near enough to $300 000. We submit that the committee's review of the proposed stamp duty on chattels on mining tenements has been undertaken a little too soon. That goes to the heart of the question about what the cost will be. We do not have experience of many transactions. We believe that in 12 months the committee could get a decent handle on the annualised cost of this imposition. We do not know whether the committee will be in business in 12 months but we believe that the Parliament should review what has happened then, particularly in view of the commonwealth proposed tax moves which may be put in place if the election comes out the way the coalition believes it will.

Subsequent to that letter, we have the release of the Commonwealth Government's tax reform package. We have noted reference to indirect tax reforms in that package. A pillar of the package states that, in consultation with the States, nine types of taxes will be abolished. These are: Financial institutions duty; the bank debits tax; stamp duty on marketable securities; conveyancing duties on business property; stamp duties on credit arrangements, instalment purchase arrangements and rental hiring agreements; stamp duties on leases; stamp duties on mortgages, bonds, debentures and other loan securities; stamp duties on cheques, bills of exchange and promissory notes, and the much maligned bed taxes for the Sydney 2000 Olympics. That package shows that the Commonwealth Government's intention is to ensure that the State does not need to raise as much of its own revenue from stamp duty. We believe that this is a case in point. In our terms these are conveyancing taxes on mining property and transfer of properties. Ms Halsey will comment in more detail as she is the resident expert on indirect tax matters. If the Federal Government intended to simplify the current indirect tax mess, why is the State proceeding? Is it a matter of timing - that the State would get in first and grab as much as it possibly can and misinterpret what came after or is it just that it will be reversed? These questions need to be clarified.

This is a significantly inequitable impost on one industry. This industry has been dealing with the Commonwealth Government in an attempt to simplify indirect taxes and other charges on the industry in order to increase its international competitiveness. That is the final line in the game. In the most part, we must sell our product in a global market and we are in competition with every other mineral producing nation in the world. It is very important that we reach the point of sale on a level playing field with all of our competitors. We will not do that with these niggling taxes being imposed at the stage we are trying to produce the metal for sale. We believe that the mining industry has been viewed by both State and Federal Governments as a milking cow. We have been back over the imposts of the past 10 years; Mr Gore will elaborate on that because he is in a unique position to do so.

The mining industry has suffered with unworkable native title legislation, the imposition of state gold royalties, a tightened diesel fuel rebates scheme and the removal of the 23PA taxation exemption for the sale of mining tenements by prospectors. All of these and many more things are slowly strangling the industry. The removal of the chattels exemption is not, of its own accord, sufficient to halt industry restructuring but when added to the list - taking the accumulated effect of those other things - it will be a significant burden. It has been said that it was nothing very much for an industry of this size, about only $4m per annum but it is $4m from the people who are forced to make certain transactions, not from the whole industry. The Government is affecting individual companies as much as it is affecting the industry.

The retention of the chattels exemption for the agricultural industry makes a mockery of any objectivity. In our view, this is purely and simply a political stunt because nobody wants to sell this to the agricultural industries while constituents believe they will not endorse members in the future if the agricultural industry is touched. It is fish and flesh and the mining industry will not wear that. We will wear what everyone else does and do it in a reasonable way but we will not wear biased treatment. This is biased treatment and it cannot be argued any other way.

We urge the committee to seriously consider the industry's contribution to the State revenue - we can supply figures and charts on that - and the need to ensure that continued growth and development occurs in this industry because without it this State will not have an economy. The mining industry now makes such a big contribution to the economy of the State and the nation that governments must look at this industry as their core business. The core business used to be agriculture but today, throughout this nation, it is the mining industry. The balance of payments looks marvellous now; without the mining industry you would not have a balance sheet. We want to retain our standing in the business community and continue to contribute to the growth of Western Australia and Australia, but we cannot do that if there is a concerted move to keep increasing our costs and making us uncompetitive in the markets we must service. Governments need to make a basic decision to look at this industry and acknowledge what it is - that is, the economic engine of Australia - and they must start treating it accordingly.

Ms HALSEY: I will answer questions as stamp duty is very specific; it is not a broad picture thing. Often people do not find stamp duty to be comprehensible. It is more a specific point issue.

The CHAIRMAN: A year or two ago, some concession was given in stamp duty for restructures and takeovers. How does that work? How is this new measure quarantined from it?

Ms HALSEY: I do not see the measures working together very much. The reconstruction provisions introduced a couple of years ago allow for the transfer of assets between group companies. Generally they allow for the transfer where the companies have been associated for at least three years and there is at least 90 per cent direct or indirect ownership between those companies. The companies must remain associated for five years afterwards. Therefore, the reconstruction provisions are quite limited in their availability. You have to be sure that you have a stable group structure because those group companies must be together for eight years. Looking at the fairly high profile groups we have heard of in the past few years, it is quite unusual for all of the subsidiaries to remain within a group for eight years. Those provisions are not particularly effective although it is good to have them.

The CHAIRMAN: Have they been used much?

Ms HALSEY: They have. We are using them quite extensively in our office; I would probably do two a month. I understand records are being kept of how much duty is supposedly being given up with these reconstruction provisions but I suspect they are quite misleading because the reconstructions simply did not take place before. It is not a question of the Government effectively giving up duty that it would have received otherwise, the transactions simply did not occur. You do not transfer $10m-worth of mining tenements between two group companies if you will incur $500 000 worth of stamp duty on the transaction. On paper it looks as though the Government is giving up quite a bit of tax but that is not the reality.

The CHAIRMAN: The way these amendments are worded, it is more than just stamp duty on chattels associated with the transfer of mining tenements. Does it affect the mining industry in other ways?

Ms HALSEY: Such a lot of equipment is associated with the mining industry and that is where these provisions hit the industry the hardest. The explanatory memorandum talked about how the Government intends to effectively exempt chattels being transferred with leasehold businesses. The local shop in a shopping centre will be leasehold and very rarely freehold. When that business is sold with the lease attached, no duty will be paid on chattels in that transaction. Farmers obviously have exemptions on freehold. However, mining tenements have been specifically included under the legislation. There has been a specific desire to exempt leasehold and a specific inclusion of mining tenements. We are not sure why that is; I suspect it is the amount of equipment involved in mining.

The CHAIRMAN: Do mining tenements equate to leasehold in practice and in law?

Ms HALSEY: They are relatively close. It is a restricted period of tenure. There is nothing like the same kind of rights as under freehold. I think of mining tenements as being closer to a lease or licence to use rather than to freehold.

The CHAIRMAN: If this proposed tax package comes in, there is an election and the current Government wins that election, will that cause a hiatus in transfers between when it came into effect on 1 July 1998 and 1 July 2000 when all these stamp duties are removed? Will there be an absolute disincentive for people to transact normal business between now and then?

Ms HALSEY: I expect so. One of the things with the tax reform package is that most of the measures come into play on 1 July 2000 but removal of stamp duties will not occur until 1 July 2001.

The CHAIRMAN: Why is that?

Ms HALSEY: It is part of the package. I gather that they have decided to have a full year of GST and after that, the stamp duties will come into play a year later.

The CHAIRMAN: That is very naughty.

Ms HALSEY: It is interesting.

The CHAIRMAN: Is there any real reason for that?

Ms HALSEY: I have not seen any discussion. I have only had the tax reform package and there is not a lot of detail there. The other concerns with the tax reform package is that it says there will not be any stamp duty on the transfer of business property. There is no definition of what that is. We assume that it will include things like equipment, land and buildings. However, I think there will be quite a bit of debate as to what will be included as business property.

The CHAIRMAN: I suppose they will look forward to collecting the stamp duty in the year and at the end of the first year they will have to get their GST rebates from the Commonwealth. Is that the reason for the delay?

Ms HALSEY: It does not state the reasons.

Mr SAVELL: There is no language in the package which tells you but you can surmise by reading between the lines what is happening: The Commonwealth will make available to the States free of interest loans for one year only repayable in the following year to take them over the transition year between the loss of their taxes and the flow of GST money back to the States as proposed. They must be certain that there is no hiatus between the ceasing of one flow of money and the start of the other. I think it is all wrapped up in the semantics of the package.

Hon BOB THOMAS: The problem is if people defer disposing of mining tenements, the Government will miss out on the stamp duty on the chattels but it will miss out on the stamp duty that it would have received anyway on the transfer of that tenement. How much money would be lost in a year if all tenement transactions were deferred until 2001?

Ms HALSEY: I have never seen a breakdown of tenement transfer figures. The total amount of conveyancing in the States is $461m. The component relating to residential property probably will not be lifted in a GST.

Hon BOB THOMAS: Is that right?

Ms HALSEY: Yes. It is just for business property. I expect that ordinary people will still pay stamp duty if they buy a house or car but business properties will be exempt.

Mr SAVELL: One of the things the committee should be aware of is if one asks officially from business or industry to government to the State Revenue Department, they say, "Sorry chaps, we cannot break it all up because it is too difficult. It is a big pot of money and we do not know what belongs to which and systems do not work." If they do not know, how can they then tell us that the removal of the chattels will cost $4m? We know that there is information in the State Revenue Department - they could not run it without it - which is probably restricted information. However, I bet there is a list showing what money is raised from where because John Langoulant is not an idiot. He does not make his estimates four years out on the flow of stamp duty mainly on the basis that the State Revenue Department does not know what it is collecting. That is one of the greatest furphies I have ever struck in my life. The Parliament should address that because otherwise it will be voting on something the impact of which is unknown; and that is not a very good way to run a country.

The CHAIRMAN: I thought the officers from the State Revenue Department would be here before you and I was going to put a question to them so that we could explore with you what it might be.

Mr SAVELL: The statistics are not available. They are very well hidden. However, I am sure they exist because one cannot run a revenue department without knowing what is being collected and from what part of the community; otherwise I could make the allegation that what they are saying is, "All right, it is all catch-as-catch-can and nobody cares and we just charge anybody who comes by." That is not the way it is done. The Government cannot estimate what it is going to collect if it does not know what it is collecting now.

The CHAIRMAN: It must know what the impact will be on the people on which the duty is imposed?

Mr SAVELL: A 12 per cent increase in stamp duty resulted in a precise figure in the estimates. It cannot get that unless it knows what it is collecting.

The CHAIRMAN: Just to answer a comment you made earlier about conducting a review at the end of the one year, I made that point in one of the debates.

Mr SAVELL: You did.

The CHAIRMAN: It must be done either before it is put on, when deciding whether to put it on, and at what level or do it one year later. However, there is nothing to stop this committee from deciding to revisit the matter in a year to see whether the impact has been greater than what the budget papers suggest it should be.

Hon E.R.J. DERMER: The suggestion is that the actual tenement transfers will be deferred or not occur as a result of the non-exemption of the sales tax on the chattels transfer. In what way would that non-occurrence of transfers, which otherwise would have occurred, impede the mining industry?

Mr SAVELL: It is hard to say. It would have to be judged on a transaction by transaction basis and all the reasons for the transfer occurring in the first instance would have to be taken into account. Those reasons may not be necessarily operational reasons; they may be other reasons.

Hon E.R.J. DERMER: Commercial investment reasons?

Mr SAVELL: Yes. Mr Gore has been involved with a number of mining companies. He is better placed to answer that question than I am.

Mr GORE: Currently, there is much restructuring occurring and much work taking place on those reconstructions. I am involved in two reconstructions. There are 110 or 120 companies listed on the stock exchange with less than $1m. When people have very little money to play with to reconstruct or merge, then stamp duty is a significant consideration. That may stop a lot of reconstructions.

Hon E.R.J. DERMER: Mr Gore, I appreciate that from the introductory comments. If that reconstruction did not occur, what advantages overall to the industry would be lost?

Mr GORE: A number of companies would go broke; it is as simple as that. There will be a lot more liquidations.

Hon E.R.J. DERMER: If in the current structure it is not viable, a reconstruction could make them viable? If a reconstruction does not occur, they go broke.

Mr GORE: Exactly. Currently, I am looking at one particular company that has some very good assets but it is delisted; and another company that is listed but does not have very good assets. Putting them together solves both problems. That is the type of thing happening currently, more so than ever before because of the problem of all these companies being unable to raise money. Nobody can raise money at the moment; it is impossible.

Hon E.R.J. DERMER: Therefore, companies go broke. Would that then diminish the overall activity in the mining industry?

Mr GORE: Absolutely. No-one is investing in it.

Hon E.R.J. DERMER: On your current small, narrow information base would it be possible to quantify the impact?

Mr GORE: Most people are very reluctant to give information anyway because when you talk about mergers and that sort of thing it is a secret society; no-one wants to let the cat out of the bag, therefore, it is very secretive. I have been involved in the mining industry a long time. I am the one who writes the cheques for the Max Evanses. My problem is, having been involved in six mining operations in the late 1980s in six years - which is a world record I am told - now 10 years later, getting involved in the Paraburdoo gold project, I just cannot believe how difficult it is now to get up a feasibility study and to make a decision to mine.

The CHAIRMAN: What do you mean by that, to the banks?

Mr GORE: No, just for companies. It is the imposts that have come in over 10 years. I will go through them. There is the gold tax; native title; FBT on remote sites; State royalty; diesel fuel; 23P(a) removal; and payroll tax widening. All those things go on and on.

Hon BOB THOMAS: 23P(a)?

Mr GORE: Yes, section 23P(a) is the section of the Act that allows prospectors to transfer property they have found without any capital gains tax.

Hon BOB THOMAS: That is a federal provision?

Mr GORE: Yes. It is just this continual chipping away. When we had to make the decision to mine on this latest property, it was not just the impost, it was the time. Everything is so bureaucratic resulting in time delays. We are involved in removing a secondhand plant and bringing it down to our operation because, with the dollar where it is, it is getting extremely expensive to import plant these days. These time delays cause all sorts of problems. When you make a decision to mine, it is almost as if everyone in society is saying, "Hang on, we do not want you to build a mine. We do not want employment. We do not want to create wealth. We are going to do everything possible to make it difficult for you." Time does not permit, but I could give you classic examples. It is so frustrating. We ask ourselves why we are doing this. Quite frankly, I would rather be in a monastery crushing grapes; I would probably enjoy it more!

However, this is the sort of concern we have. It is not that we are being hit with a sledge hammer, it is the continual chipping away and this is just another chipping away. The Government said in the late 1980s, "Why should the mining industry be free of tax? Why should it not pay tax? Everyone should be the same." Therefore, they introduced the gold tax and we were then the same. Now they are doing the opposite by imposing a tax on us that is not imposed on the agricultural industry. It is a reverse of the principle.

The CHAIRMAN: What is the group in the Pilbara with whom you are joint-venturing?

Mr GORE: Lynas Gold.

The CHAIRMAN: If you move plant from Lynas Gold's mine to SIPA, what is the stamp duty on that?

Mr GORE: It is an unusual situation because we do not have any ownership in the plant. It is their plant so there is no actual transfer. There is a transfer physically and geographically but there is no transfer in ownership.

The CHAIRMAN: Therefore, if the plant can be physically moved off your lease and you sell your lease, there is no duty. Is that right?

Ms HALSEY: No. I think you might be thinking of quite a specific example.

Mr GORE: Yes, that is right. It is a very unusual situation. It rarely happens. Normally there is a change of ownership. That is when stamp duty is payable.

Ms HALSEY: The plan is, for example, if you have a project and you sell your chattels to one person and your mining tenements to another, there will be full duty on both of those legs, even if they are sold to different people. Therefore, this concept supposedly applies only when they are sold together. It is quite clear that that is not what is intended. It will be considered that when something is part of one transaction, both the chattel and land components will be taxed. It has been made quite clear that where transfers occur to two entirely separate parties, there will be stamp duty on both of those legs. The other thing is that a mining project with two companies where one company owns the land and the other the chattels and both of those companies sell to two entirely different parties, there will be stamp duty on both of those legs also, which is just bizarre. It means that if you are selling secondhand equipment out of a shop in Kalgoorlie, you will not pay stamp duty on it. If you are selling part of the project to different people, you will pay an extra 5 per cent on it.

The CHAIRMAN: What are the income tax consequences of this change to the Stamp Act? What changes will there be in determining the profit from the sale of a mining tenement?

Ms HALSEY: I am not an income tax expert. Stamp duty is often deductible, but in some cases it is not.

The CHAIRMAN: In what cases is it not deductible?

Ms HALSEY: It may not be deductible if it is a capital expense, which it often is if you are purchasing a large asset.

Mr SAVELL: As opposed to an operating expense.

Mr GORE: You still have depreciation, but over a long period.

The CHAIRMAN: Will these changes to the Stamp Act affect the write-off of the value of the chattels for depreciation purposes?

Mr GORE: I would not have thought so.

Hon E.R.J. DERMER: I was interested in your earlier comment about the market for the export of various minerals and how this extra cost will impact on that market. At this stage it would not be possible to quantify that impact because of the recent introduction of the impost of stamp duty on chattels. Does your organisation have any future plans for quantitative assessments of the impact of the stamp duty on the overall performance of the industry from an export point of view?

Mr SAVELL: That would not provide a very meaningful figure. Quite a number of elements are to be removed by the tax package to increase our competitiveness. In other words, taxes on business inputs supposedly will be removed; that is what drives the cost within Australia. The global market sets the price of the metal to supply demand. If you went through an exhaustive exercise you could work out what impact every single tax or any other cost might have on what you are doing, but it probably would not mean a lot. The contract will be that you will deliver metal either free alongside or free on board a vessel to sell at a given price elsewhere. It is the price that you can deliver it alongside which determines your profits against the price you are paid for it. To go into something as far down the line as one single item, whether it be stamp duty on a transaction or this or the other, would not be very meaningful; it is just part of the whole.

Hon E.R.J. DERMER: What if you aggregated the various imposts and put up an argument on that basis?

Mr SAVELL: You could do it with an aggregate figure.

Hon E.R.J. DERMER: Has your organisation considered doing that?

Mr SAVELL: We have been doing it, but at this stage the tax package is on the table dependent upon an election and the legislation that translates out of the conceptual package being put in place; it is about two years down the track. Leaving aside the timetables, it is about two years before you will be in a position to make an assessment about the effect.

Hon E.R.J. DERMER: Which minerals are particularly sensitive in the current market?

Mr GORE: Nickel.

Mr SAVELL: And particularly gold. The last count from the exchange was that 115 small resource companies were trading below 6¢ per share. That is the perception of the investors; people are not buying the shares in those companies. Because gold is out of favour and investors do not think it is worth talking about, the companies cannot raise money to do anything. That is why the joint ventures and mergers are looking like the only way out of that morass.

Hon E.R.J. DERMER: They might even confront the problem with the sales tax and chattels transfer?

Mr SAVELL: It has been said that it costs about $300 000 to $400 000 a year in various costs to run a small resource company. There are 100 companies with a reputed reserve cash balance of less than $500 000 on the exchange at the moment. These are the companies at the bottom end of the food chain; all these bits and pieces of costs start to mitigate against their chances of survival. There is an awful lot of those 100 or 115 companies that will not make it. There is no risk about that because they have too little money in the bank at the moment to stand the costs of running the company in an effective way.

Hon BOB THOMAS: What are the employee numbers in those companies?

Mr SAVELL: At the moment, not a lot. Most of them have been forced to shed staff and have ended up with two men and a woman looking after the telephone. It is a very small operation.

Mr GORE: That is exactly what is happening

Hon E.R.J. DERMER: Nickel and gold combined would be quite a significant proportion of the activity in Western Australia.

Mr GORE: The nickel price at the moment is $1.84. I was involved in the Mt Keith project and when we did the feasibility study, to break even was $2.90 and it is now $1.84. Western Mining Corporation might be able to do it cheaper than we were, but it would still lose a lot of money. I was involved with Mt Isa Mines recently and it had just closed its Perth office - 30 people put off including the managers. MIM is a big company, but it had to cut back and that is what is happening. Mr Savell is right; there are two men and a woman in the office and they are hanging on in the hope that things will improve.

Mr SAVELL: The hallmark of all these problems goes back a decade. In global terms, it all started in the national industry in the 1980s when maverick company directors did all sorts of dreadful things, were caught and were brought to account and the Australian Securities Commission was formed. A new set of legislation and regulatory mechanisms were put in place to make sure that everyone was dead honest. The Australian Stock Exchange decided to form a national exchange. It brought in new listing rules and forgot one very simple thing; that is, that the BHPs, the Western Minings and other large corporations of the world can stand a level of compliance costs which small companies cannot. If a small company is made to comply with the same rules and divisions or differentiations in the business are not made, it may be able to take one or two steps and say these rules apply, but if you add this and add that, we still cannot achieve Rolls Royce standard. At the moment we have some little Fiats around trying to comply in company terms with the Rolls Royce arrangements. This is a difficult position. When you start adding on all those costs, you will find that governments add costs when the industry is looking good and *The West Australian* is reporting that we have another boom on our hands. The only occasion when that has not happened was the Western Australian Government putting on a royalty at the time when the industry was on its knees and all the charts were going through the floor. That was the worst piece of business I have ever seen in my life.

Then the Federal Treasurer says, "We have the smartest Reserve Bank in the world, because it just sold half of the reserves. Look at the money it made", knowing full well he was going to get the divvy. Then the next day he says, "Don't worry about it too much because gold is not relevant anyway." He forgot that we had a $5b industry; he forgot that every investor was listening and thinking, "I had better get into something else." Now we have the accumulation and convergence of market and government-driven factors which have us on the floor; that is it in a nutshell. If you take all those things together over a decade you will find that this industry has been cornered not by market conditions, but by government action and perception.

Mr GORE: The other thing to remember is that for every one person on a mine site there are 2.7 people employed elsewhere. If we have 50 people at Paraburdoo, multiply that by 2.7; that is an important point to remember.

Hon SIMON O'BRIEN: You mentioned that of the 100 or so small operations which were capitalising under $500 000, some would be going out of business. Were you indicating that that may occur as a result of this stamp duty on conveyancing or that it will happen in due course?

Mr SAVELL: I was not suggesting that this was the only factor. Since I have been in this industry, I have always said that actions are often the result of an accumulation of effect. I am not suggesting this particular factor will be the reason that will happen; this is part of the bigger picture which is causing that to happen. You cannot just keep on adding straws on the camel's back; sooner or later the camel will fall over. You are seeing an example in the gold industry of that happening. That is the reason there have been quite a lot of moves at the larger corporate level to either take over other assets, merge companies or come to some joint company arrangement. If you work it backwards and have a good look, you will see companies securing assets, goldmines, deposits and what have you which are high grade, easy to exploit, low-cost production assets. In other words, the larger corporations are drawing into the really good country; that is, a lot of the deposits will be left unexplored and unexploited under the present arrangements.

In some cases, if a mine was half finished and 60 per cent of the asset was extracted, no-one will want to talk about that asset in the future so the community has been denied 40 per cent of the value of the asset which was originally exploited. In other cases, there will be high-grading of deposits because you cannot stand the cost; in other words, you raise the level of grade of ore you treat, purely to make a profit. You will not receive what you are putting on that stockpile because you cannot afford to do it on the very low grade; you must shandy them together to make it work.

Community resources are being wasted so governments never look at that, they just say to themselves, "This is a terrific little royalty. It will be $80m." They forget that we will waste 95 per cent of the resource. However, equating to the State they have made nothing. They have wasted resources; that is the big problem.

Hon SIMON O'BRIEN: Point taken. We are looking at the specific impact of the changes to the application of stamp duty upon chattels that are conveyed in conjunction with land including mining tenements and long-term leases. I value your comments on a range of matters, but focusing on that, can you provide a hypothetical example of how a transaction, since 1 July, is impacting on the vendor and the new owner and the effect of this stamp duty on chattels?

Mr GORE: I can give you some examples. Traditionally, large companies will not look at a deposit unless it has one million ounces. Our project has only 176 000 ounces - hopefully we will find a lot more. Western Mining would laugh at it. It needs one million ounces. It is the small companies which go out and mine those deposits. Western Mining could not make any money at Hill 50. Western Mining sold it and that mine is now making money. The Stawell mine in Victoria was sold because it could not make money; that mine is now making money. Both mines were sold to small operators, proving that the small operator does something that the big company does not. If that deal was done today, that company would have the impost of that duty.

Hon SIMON O'BRIEN: That is probably a good example to make. Can you explain that impact?

Mr GORE: I do not know the margin in the deal but the stamp duty would certainly be an extra impost companies did not previously have. More importantly, we are involved in trying to resurrect and keep some of these middle companies going. Most will not survive unless they get together. They are getting together with what little money they have. They will need to add on this extra stamp duty cost. Whichever way they turn, life will not be going well for them.

Hon SIMON O'BRIEN: I am trying to get information for the Parliament in order to try to illustrate an answer to a question we have had referred to us. To do that, we need to say that we have hypothetical situations in which deals would fall over. If this stamp impost were to be that great, people would not go ahead and do a deal. It is useful therefore if we look at conveyances that have occurred before 1 July to see what would have been the effect of the stamp duty had it been in place. I can see how it would affect a deal and how a deal may or may not go ahead depending on viability. If you could comment on the different and further effects on the vendor or the buyer specifically, it would be useful.

Ms HALSEY: Most of my examples would be transactionally based. I tend to act on the transaction as a whole. I have a couple of examples from the past couple of years. One is quite an extreme example but it tends to illustrate what happens with the extra impost. One of the difficulties with stamp duty is that it takes no account of gearing levels. In a transaction in which property is worth $10m and it is 90 per cent geared, the company has only $1m of equity. It would lose half of that equity in stamp duty because the stamp duty takes no account of the actual ownership. That makes a big difference to transactions. In my experience, the more highly geared transactions would fall over. I was involved in one last year. It is an extreme example but it did occur. The tenements were not worth very much at $450 000. Mining information was worth $450 000. For argument's sake we can include the information with the tenements, because that tends to be the case with state tax when they are being assessed. There was plant and equipment of $7.1m. Overall the assets were worth $8m. There was a very heavy plant and equipment exposure. The reason was simply that the tenements were not valuable but the plant was because it was a small nickel plant which could be relatively easily transported. The owners wanted it brought on before the big projects overseas came on stream. To be able to have the plant quickly was of enormous value to those people. The project was 80 per cent geared, so on an $8m project the equity was $1.6m. Last year stamp duty was not levied on plant and equipment, so the duty was about $38 000. If the same transaction were to be carried out today, the duty would be $380 000.

Hon SIMON O'BRIEN: To state the obvious, that is because so much money is tied up with the plant and equipment, all of which would be subject to stamp duty on chattels.

Ms HALSEY: Yes. That would have taken 24 per cent of the equity of the project. Although that 80 per cent gearing ratio is an extreme example, it actually occurred. What would happen now is that it would be unlikely that the deal would get off the ground because the duty would take too much of the equity.

Hon SIMON O'BRIEN: There would be nothing left in the pot.

Ms HALSEY: That is right.

Hon SIMON O'BRIEN: The Government went to some pains in some of its explanatory material to draw a difference between the way chattels are treated in a transfer of a tenement, as in your example, as opposed to the transfer of a leasehold business. How does that affect the industry? What proportion of transactions would be of the sort you described as opposed to the transfer of a leasehold?

Ms HALSEY: Virtually all would be mining tenements. When people refer to a mining lease it is actually a mining tenement.

Hon SIMON O'BRIEN: The Parliament was advised that a tax, duty or whatever on mining chattels - a rose by any other name - applies in every other State. Is that the case?

Ms HALSEY: Yes. Chattels have been exempt in Western Australia for a long time, which has been the nice thing that other States do not have. All of the other States have other duties, such as a stamp duty when chattels are transferred with a business or tenant.

The CHAIRMAN: Do they have them for farms as well?

Ms HALSEY: It is possible that there are, but I have not seen any exemptions for farmland in those States. In other States there are a range of different rates. Western Australia has put its rate up to 4.85 per cent but the highest rate in any other state is in Queensland at 3.75 per cent. There are quite dramatic differences in the rates between the States. Stamp duty is so non-uniform and the practices so different that you cannot draw very good comparisons between States.

Hon SIMON O'BRIEN: If I were reinventing the world, I would do it without stamp duty. My personal view is that they are an evil. You discussed earlier the level playing field and compared the mining industry with the agricultural industry in this State. I put to you for a response that that is comparing apples and oranges. If we are talking about a level playing field for the mining industry, we should be relating it to the mining industries in other jurisdictions and not to the agricultural industry in this State. If a conveyance tax applies in other States to mining chattels, the argument of the level playing field being eroded cannot really be applied in this situation.

Mr SAVELL: I disagree with that. What is the reason for exempting agriculture? Are we saying that because the farming community is in a particular economic situation that it cannot afford to pay? If that is the case, I want the same level playing field. I have about 115 companies which cannot afford to pay and a lot more which do not want to pay because they believe it is unfair. If, as you want, we compared the Western Australian mining industry with other mining industries of Australia, have a think about the difference in this State. The State Government knew that it would be on a huge winner for the simple reason that most of the mining transactions and the biggest part of the mining industry is right here in this State. By picking on anything that it could lay its hands on, the Government knew that it would get comparatively more than any other State Government. The only other State which would come a little closer is Queensland. Queensland's mining industry is a long way behind ours. The Western Australian mining industry is a beautiful cash cow because whatever Governments do to raise money from the Western Australian mining industry, they know that they will get a lot of money out of it because it is a big industry.

The CHAIRMAN: Also, the assets of the mining industry are sold perhaps more frequently than any other industry.

Mr SAVELL: That is right.

Hon SIMON O'BRIEN: Please do not get the idea that I was serving that proposition up to you in a hostile way.

Mr SAVELL: I did not take it in that way.

Hon SIMON O'BRIEN: I was inviting you to put that view on the record.

Mr SAVELL: We do not get upset about it.

Mr GORE: I suppose you could reverse that question and ask: In 1989 did the farmers want the mining industry to have income tax to create a level playing field?

Hon E.R.J. DERMER: I seek clarification on how the corporate structure works. If a mining tenement is purchased by one mining company from another, the sales tax would apply to the chattels. If one company is purchased by another company, the sales tax would apply to the chattels. What happens when there is a restructuring and, for example, two small companies amalgamate and create a new corporate entity?

Mr GORE: That is not a restructure; it is a transfer of assets.

Ms HALSEY: They will have to transfer them to something.

Mr GORE: That is right.

Hon E.R.J. DERMER: When assets go from the old to the new company, the tax would not apply.

Ms HALSEY: It would either be collapsing both companies into one or creating a new entity, in which case there will be a change of name and people will not be able to take advantage of the corporate reconstruction provisions because the companies will not have satisfied the test of 90 per cent ownership within the same group for the previous three years.

[The witnesses retired]