

HANSARD TUESDAY 10 AUGUST 2010

IRON ORE AGREEMENTS LEGISLATION AMENDMENT BILL 2010

Second Reading

DR M.D. NAHAN (Riverton) [8.55 pm]: I would like to make a few comments on the Iron Ore Agreements Legislation Amendment Bill 2010 and refer to some of the comments made on this bill today. First, as have most members, I congratulate the Premier and Minister for State Development for negotiating this. I remember maybe a year ago when the other side was lambasting him for not following through on the so-called Carpenter initiative.

Quite clearly, there was a doubt about the initiative and whether it was formalised. More importantly, through his perseverance and by using the situation as it unfolded, the state got substantially more money both from the lump sum and through ongoing royalty payments. The shift to normalising the tax on royalties has been longstanding. We even discussed it when I was in the department of resources development in the eighties. It was a longstanding initiative and to be supported.

I would like to make some comments on an assortment of issues that were raised today. It is quite clear that the Henry tax review and the subsequent mineral tax, super tax marks I and II, have raised an important issue in Western Australia and one that is not new; that is, does the state get a fair share from its assets—the iron ore and other minerals—that it owns?

The starting point, which was raised by the member for Kalgoorlie, is that the royalties are a payment, not a tax, for access to minerals that are owned by the states. They are a state right under the Australian Constitution. Any effort or action, whether it is no action or action or support that allows the commonwealth to come and take over those minerals, is a serious issue. It does address the issue of whether we are getting a fair share and how.

The member for Balcatta made a very important point. Like me, he has been around for a while. We can often remember when the iron ore or the mineral industry went up and up. When I became involved in the mining sector in the late 1970s, the gold sector was about ready to close. Mt Charlotte goldmine was about to close but somebody gave it a bunch of money and it stayed up.

When I first came in, I remember helping to renegotiate the North West Shelf contract when the take-or-pay option was almost bankrupting the state. Then again in the 1990s, iron ore was not profitable at all. In the early part of the 2000s, the gas price was \$US11 to \$US12 a barrel and the North West Shelf was not going to expand. We look forward and we see a booming China and India, where there are great prospects and the prices are high. We should not rely on it.

The member for Balcatta also confused a couple of things. The royalties that we levy now are largely ad valorem royalties; they are added on the value of the tax. Royalties can take many shapes. When I first came into the bureaucracy, my task was to look at a profit-based royalty under the Burke government. We spent two years looking at that. At that time the issue was whether we were getting a fair share—in other words, revisiting an old issue. Should we consider putting a profit-based tax or royalty —

Mr J.C. Kobelke: Did you at the time believe that was constitutionally possible?

Dr M.D. NAHAN: No. The state was to levy it.

Mr J.C. Kobelke: That is what I am asking. Is it constitutionally possible for the state to levy a profit-based royalty?

Dr M.D. NAHAN: Absolutely. The question is: can the commonwealth constitutionally levy a profit-based royalty?

That is what we will end up testing in the future if Gillard wins the election in a couple of weeks. The member for Balcatta asked whether we should use the ad valorem rates to grab a larger share of the pie. It would be highly destructive if we went up to 15 or 20 per cent of minerals, particularly on marginal projects in the Mid West that require a lot of capital expenditure and new investment.

If members opposite strongly believe that the state is not getting its fair share of the royalties and that we have to be careful about volatility and profits, they should revisit what the Burke government visited back in the 1980s, which was a profit-based royalty proposal. The alternative is the commonwealth proposal. The commonwealth's super tax mark I was one of the sloppiest and most potentially destructive pieces of public policy that I have ever seen.

As members know, the commonwealth budget reflected that the super tax would raise about \$12.5 billion. However, there was a leak that the super tax was going to raise double that. The result would have been \$24 billion and high levels of uncertainty. It would have been highly destructive. The Gillard government renegotiated the super tax. It is my view that the new tax will not result in any revenue from Rio Tinto and BHP Billiton for five to 10 years. The way that the tax is structured and the way that it was negotiated by Rio and BHP means that they will have plenty of deductions. They will be allowed to fully deduct all their assets at market prices before they pay any royalties.

They will not pay any tax for five to 10 years and the totality of the profit-based royalty will be levied on new marginal projects, including Fortescue. That process is highly discriminatory and flawed. The question is whether Western Australia is being duded. The member for Cannington asked whether we are being murdered by the mining firms. Again, we have to put in a regime that can sustain ups and downs in the sector. Even though Rio has made a large amount of money out of Hamersley over the years, up until the past four or five years one would have to say that we got a fair share, particularly given, as the member for Balcatta stated, it made other contributions to the state, such as employment, asset formation and other things.

Will we get our fair share moving forward? Rio and BHP have publicly stated that most of the profit that they have earned from their iron ore resources over the past 20 years has been more than reinvested in new assets. It is true that they are multinational firms and that their profits go around the world. However, they have invested very heavily in Western Australia to the totality of the profits they have earned from their assets. They might not do that in the future, but indications are that they intend to do so.

The profits from the mines owned by the majors have flowed back into Western Australia, probably in the most productive way, which is new productive assets that employ people. As for the smaller companies, such as Fortescue and Atlas, they are largely local firms and their funding base comes from around the world.

One of the issues that has been raised repeatedly in this debate is whether or not we should use the windfall of the China boom to set up a large sovereign fund. Alberta did it effectively

from oil and gas in the 1970s. At the commonwealth level, Peter Costello set up two sovereign funds. One was for higher education and one was to fund the superannuation of public servants. Both of those funds have been largely raided and dissipated by the Rudd–Gillard government. One of the problems with sovereign funds is that they are not sovereign and they get raided by sovereigns. They simply do not work in most places. Norway is a strange place and different from ours.

The members for Balcatta and Cannington also referred to the so-called dudding of Western Australia by the goods and services tax. We have not been duded by that at all. The state of Western Australia has received more money because of the GST than it would have otherwise received. Members opposite are confusing two issues; that is, the GST and the Commonwealth Grants Commission process.

The GST gives the states some kind of predictability and natural growth in their revenue flows and its general-purpose grants from the commonwealth. Before the GST, the commonwealth could cook up a sum of money that it would hand over to the states in general revenue. The states received from the GST the totality of the GST; if it grows, the states get the totality of the growth. The commonwealth decided to allocate the GST through the grants commission process that had existed since the 1930s.

The grants commission process is what has duded Western Australia, not the goods and services tax. Members are confusing the two. That might be politically clever; but they are different issues.

When the GST was first introduced, we received more than our population share. I think it was 11 or 12 per cent. It varied from time to time and it has gone down steadily since, aiming towards 5.5 per cent, which is shocking for the state. That is because under the Commonwealth Grants Commission process, which is largely a welfare organisation system, Western Australia has become richer. It receives more income and people are on higher wages. Further, our costs have gone down, largely because more people live in Perth.

Mr J.C. Kobelke: I think you are saying that it isn't the executor who killed him; it was the rope.

Dr M.D. NAHAN: That is the truth. Until recently, the grants commission process had bipartisan support in this house. For most of that, we were what is called a claimant state; we received more than we paid. The member for Balcatta raised a good point when he asked where we go from here. He suggested that we accede the rights to our resources to the commonwealth in a commonwealth royalty and do a deal with the commonwealth to get the proceeds back.

Mr J.C. Kobelke: On the basis that it will take it anyway. We can't stop them.

Dr M.D. NAHAN: That is a cop-out. First, we would be giving away a fundamental resource. We would be giving the commonwealth a fundamental asset of the state for no predictable gain. We could do a deal with the commonwealth and say that we want a share of that and it might agree to it during an election, particularly when it is not polling well in Western Australia. However, as the member indicated, we would not be able to trust the commonwealth government after a federal election. More importantly, it would come back with commonwealth strings attached.

The commonwealth would say that it would pay that money, but only if the state spent that money where the commonwealth wanted it to spend that money; moreover, the state would

have to take money away from its higher priority projects to match the commonwealth. In other words, slowly the state would be tied to the cartwheels of the commonwealth. Not only would it control the money, but it would control policy and we might as well turn off the lights.

Better yet, if members opposite believe strongly that we are not getting an adequate share and they recognise that the royalties would distort the small mines, the opposition should work-up—it would keep it busy for a while—a profit-based royalty levied by the state. It would work. Some of it would get wound back in the grants commission process, but that is life. We have to fix the grants commission process, because that is what is dudding us.

Mr J.C. Kobelke: How would apply that to companies with which you have a state agreement act?

Dr M.D. NAHAN: The Premier showed the way. We can renegotiate agreement acts. The Mines Act has determined the royalty rate for most of the recent agreement acts. If there is a profit-based royalty, there is no reason for discriminating against the petroleum industry and the iron ore industry and not the other very profitable sectors of the mining sector. That was Gillard's furphy. This is a fundamental issue; it is about our heritage and our future. We have huge infrastructure demands to facilitate the development of the mineral sector, to make sure that the towns affected are redressed and to ensure that we achieve a better distribution of people around the state. However, despite our royalties, we are continually losing the financial capacity to carry that out.

This is one of the fundamental, crucial issues we must address. But the mining tax put forward by Gillard will harm that, not help it.

The member for Cannington raised a couple of other issues. I put it out there, I guess, for speculation and discussion. There are many other ways to add value to the mining sector. The member raised the point that we have tried with mineral processing, particularly specific to the fines. One of the ideas was that lower taxation of fines would lead to local steel mills, but it did not happen. However, we are getting quite a few steel mills as a result of the magnetite, so nothing is unpredictable.

However, I would urge the Premier to undertake a few other lobbying issues. First, he should make sure that even more of Rio Tinto's and BHP Billiton's headquarters are located in Western Australia. There is no reason why—most of them are moving here naturally—BHP Billiton's headquarters holus-bolus should not be in Western Australia rather than in Melbourne. Also, one of the major issues in debates going forward, particularly if Gillard wins in two weeks, God forbid, is that the mining sector will simply have to pick up more of its infrastructure costs.

Therefore, one of the tasks is to ensure that before the Gillard super tax mark II is put in place, there is a deduction for all infrastructure investment by mines. If it does not, we should expect people opposite, particularly after the election, to rigorously support the formation of what is deductible and to ensure that infrastructure on the mine site and in the towns and contributions to local government and social assets are fully deducted before the super tax is put in place; otherwise, we will have even less investment by the mining sector in Western Australia.

I congratulate the Premier on his initiative. He has shown perseverance. He just fluffed off the flak from the people opposite about following Carpenter nowhere and started dealing in

a minor, but substantial, way to ensure that we get adequate revenue from the mining sector and that we treat mines on a like-with-like basis.

However, it is still out there, and I look forward to the people opposite not just succumbing to the need to support their friends in Canberra, but actually coming up with practical ideas. If they believe we are not getting a fair share, they should suggest how we can do so. In other words, let us get on with the big picture.