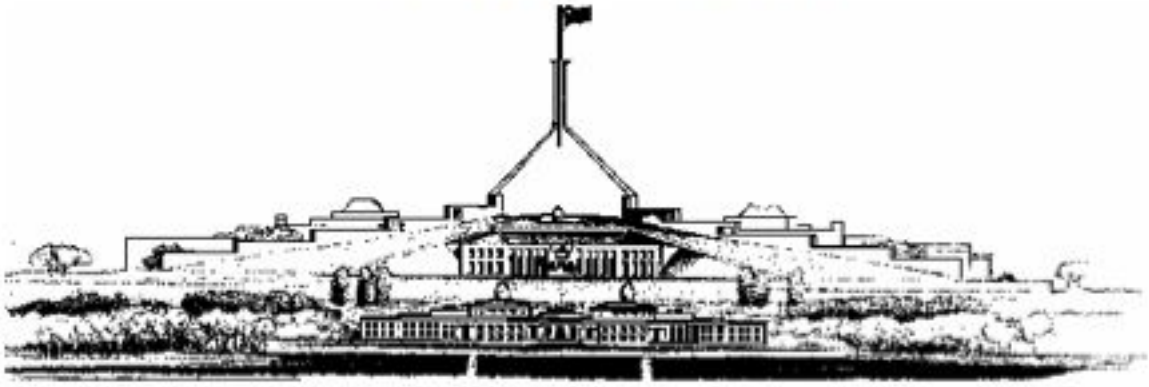
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

BILLS

Minerals Resource Rent Tax Bill 2011, Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Bill 2011, Minerals Resource Rent Tax (Imposition—General) Bill 2011, Minerals Resource Rent Tax (Imposition—Customs) Bill 2011, Minerals Resource Rent Tax (Imposition—Excise) Bill 2011, Petroleum Resource Rent Tax Assessment Amendment Bill 2011, Petroleum Resource Rent Tax (Imposition—General) Bill 2011, Petroleum Resource Rent Tax (Imposition—Customs) Bill 2011, Petroleum Resource Rent Tax (Imposition—Excise) Bill 2011, Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures)

Bill 2011, Superannuation Guarantee (Administration) Amendment Bill 2011

Second Reading

SPEECH

Monday, 19 March 2012

BY AUTHORITY OF THE SENATE

SPEECH

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Questioner		**Responder**	
Speaker	McKenzie, Sen Bridget	**Question No.**	

Senator McKENZIE (Victoria) (11:44): I rise today to speak on the Minerals Resource Rent Tax Bill 2011 and 10 related bills. As a Victorian, there may seem to be not much here that we would disagree with. Why not distribute all that wealth from Western Australia's and Queensland's mining boom to the south? It sounds logical and egalitarian, even if you do not buy into the whole bashing a millionaire rhetoric that the other side seems to specialise in since Treasurer Swan's *The Monthly* opening salvo. After all our—and I mean Victorians'—GST revenue has been going to prop up other states for the past 10 years.

Our significant manufacturing sector is feeling the pinch of increased input costs and the low Australian dollar and, as other speakers have mentioned, the mining sector is doing incredibly well at the moment. The mining sector employs over 780,000 Australians. A significant number of workers from Victoria and the eastern seaboard either relocate or work in fly-in fly-out operations in other states. They spend their money at home in Victoria on their mortgages, school fees, groceries and cars. So Victoria receives a share of the mining boom through increased GST revenues generated by the increased wealth of the employment generated through the mining boom.

The typical way we have taxed mineral extraction in this country is through state-based royalties. The Leader of the Nationals, Warren Truss, articulated the social licence inherent in the existing mineral compact with state and federal governments. The concept of royalties tied to extraction, not profit, is befitting the current and past circumstances as this is a non-renewable resource and the people of Australia are entitled to receive a benefit. That is where I think we all do agree. We all do agree that these minerals are a non-renewable resource and that Australia, as a nation, needs to be assured that that is being recognised, particularly where some sectors and states are doing better than others, as is the case at the moment. But it is not the first time that, as a nation, we have experienced a two-speed economy.

In fact, when we had our mining boom in my home state of Victoria in the mid-1800s, people travelled from all over the world to get a piece of the action. Not a dime of the revenue collected went to Western Australia, not a penny or a farthing or a shilling went to Queensland. Any revenue taken from the goldfields in Victoria was jealously guarded and helped to build the magnificent public infrastructure that exists today in our state. It is great to see another fellow Victorian, Senator Ryan, agreeing.

The gold rush offered a new opportunity for governments to raise revenue. New South Wales and Victoria introduced a gold licensing fee for the right to mine allotted sections. This was considered the most feasible option for collecting revenue because of its ease of administration. In Ballarat the licence fees were the trigger for a significant uprising of Victorian miners against the colonial authority, resulting in what we now know as the Eureka Stockade. It became quite symbolic for the labour movement because, back then, individuals did the mining. The primary reason for the uprising was the high level of licence fees, but other contributing reasons included the fact that the fees had no link to gold discoveries, miners rarely saw the benefit of public expenditure and the inequity of taxes compared with the light taxation of wealthy landholders.

Following the riots and rebellion at the Eureka Stockade, gold licence fees were replaced with a gold export tax. I make this point because I would hate to be seen in this conversation as a Luddite, somebody who harks back to the past and believes in state rights. I do believe in state rights passionately; however, I do also recognise that, as our nation changes and as the industry of mining changes from individuals mining their allotted plots to companies doing the mining, that we also need to examine different ways to ensure an appropriate contribution is made. As a state that is powered by brown coal, Victoria is concerned about the application of the tax to the brown coal industry and the capacity of the state to set appropriate royalties on the resource that the state owns. I have not heard anything in the debate thus far that assures me about the sovereignty of the states in this context.

There are many issues both philosophical and economic that I have an issue with on this legislation. Today I will touch on two. They are consultation with the states and wider issues with the process for getting to the end point of this legislation. Firstly, our Constitution clearly states that these resources belong not to Australians but to the states. This government is recommending taking over the states' right to charge royalties for the minerals. I realise that

our Federation has changed in form and function over the last 100 years. However, it does not mean that any members of said Federation can ride roughshod over our Constitution and disrespectfully fail to consult and include each other in discussions and decisions that will materially affect each other.

I suggest that the senators proclaiming this tax as the boon for all Australians be a little more proactive at the local level and directly lobby their state governments for an increase of revenue extraction from their miners or on how that is spent. Let us take the Royalties for Regions program in Western Australia, a Nationals initiative which has delivered a financial windfall to the regions of WA. Those people in communities directly affected by the impact of said mining projects receive recompense—a contribution towards infrastructure, education, environmental projects and service provision in recognition that those in regional Western Australia are directly affected, both positively and negatively, by the mineral boom. These finite non-renewable resources are not those of Australians. They are the property of Western Australia, just as the gold dug up in Ballarat, Bendigo and Erica in the 1800s was the property of Victorians. It makes sense. This is where the positive and negative impacts—social, economic and environmental—of the mining projects are felt and, by applying the tax at that point, a localised response seems most sensible. Similarly, when miners leave an area, it is the state government who will have to assist a community to get back onto its feet. Doesn't this make more sense?

The Labor Party and the Greens have been waxing lyrical about the need to share in the boom, about the miners paying their fair share and about all the wonderful projects that could be achieved if this tax existed. I listened incredulously as they listed schools, tourism project and roads. Senator Gallacher just now mentioned foreign investment in mining projects in Indonesia. Anyone would think that that the governments had been asleep at the wheel for the past two decades. Each jurisdiction in this conversation needs to talk to the other. There needs to be consultation. It requires collaboration to ensure that all the people in this conversation get a valuable contribution from the mining industry and Ken Henry knew it.

The minerals resource rent tax stems from a government review of the Australian taxation system. The recommendations of that review by the former Secretary to the Treasury Ken Henry outline a shift from taxation based around individuals and businesses to one based around resources and land. It is clear that recommendations 45 through to 50, which deal with changing the arrangements relating to the taxation of resources, were made in the context of a whole-of-system change. Restructuring how we tax in this country needs a whole range of measures. Instead, this government, in its wisdom, under its former leader and now again under its current leader, took a small proportion of those recommendations, failed to consult and flipped and flopped. And now we are dealing with the legislation. I cannot wait to see the implementation given the government's past track record.

The second thing Ken Henry recognised was that this would be a negotiated agreement with the states. He had actually read the Constitution. Recommendation 48 states:

The Australian and State governments should negotiate an appropriate allocation of the revenues and risks from the resource rent tax.

Not the three biggest players, not some watered-down kitchen cabinet but the states and the Commonwealth coming to a modern interpretation of revenue and risk when examining our finite mineral resources.

Unlike the previous speakers on the topic, particularly those from the other side, today I will not be critiquing miners, will not be criticising workers and their communities or the families left behind. I will not be criticising the skills that are developed by this industry or its contribution to our nation. I will not be critical of the people who work hard, who earn a living and who carry the risk. I will not be critical of those that employ them.

Another issue with this tax is the process by which it has arrived at this point. The Henry tax review recommended a resources rent tax. This recommendation was then developed further by Prime Minister Rudd and Treasurer Wayne Swan and included all miners. Following the first version announced by the Labor government in 2010—which ended up, as I said earlier, a selective pick from the review—the government, in the Senate Standing Committees on Economics report, said 'the government decided not to pursue the RSPT'. That is all the mention they made of it. There was no mention of the fact that it was incredibly unpopular or that they were under pressure internally and externally; it was just that the government decided not to pursue it at that time. Essentially, in the face of mining and public pressure, they backed off. They backed off, sacked a PM and renegotiated the whole deal with the three big miners.

This tax has been cobbled together. It is a policy which is difficult to determine the parentage of. Was it Henry? Was it the then Prime Minister? Was it the current Prime Minister? Was it the Treasurer? Was it the Three Musketeers? Was it Bob the Builder? Who can say?

I dare say that they have all had a little bit of an input there. One thing is clear: whoever the parents of this tax are, what we do know is that it will stunt the growth and development of the resource sector. It will make us less competitive internationally, especially as it may be increased by future governments from the present amount set. Senator Evans commented on that this morning on TV. It will tax the one sector of our economy which is powering ahead, the sector which is driving spending in other areas. The miners take with them when they go home to Perth or to other states their hard earned money for spending and investment.

This tax has been poorly designed. Juan-Carlos Fernàndez, a renowned architect, has a lovely quote that I think applies beautifully to the design of this tax. He said bad design is smoke while good design is a mirror. Why is this badly designed public policy? Seeing Senator Bushby is in the chamber, I will go to the coalition senators' dissenting report of the Senate Standing Committees on Economics inquiry into the tax as a reference point. I also note Senator Eggleston is in the chamber today. It reduces our international competitiveness. It raises constitutional issues. The dissenting report also mentioned the unfair competitive advantage to the three big multinational miners that were part of the behind-closed-doors conversation about the reconstruction of this tax. It is quite farcical—audacious even—that the conception and development of this tax was behind closed doors. This policy was developed to ensure that the tax would minimise potential impact on the three big companies while disadvantaging smaller companies—those which provide competition in the sector, the nimble innovators who, as Senator Boyce mentioned earlier, hope to one day become big miners. The government and the Greens are in the back pocket of the big miners. What a joke. To hear the rhetoric over the last day and a half on this is quite laughable.

Why develop policy in backroom deals? Why not hold consultations with all stakeholders? Why not develop public policy with the national interest in mind, not the Labor Party's political interest? Ask our irrigation communities, ask our manufacturing communities about the level of consultation by this government on the impact of this legislation on community. Let us get real: this legislation was a political fix from the start to get it out of the papers, off the table and out of people's minds. Rent taxes, particularly the petroleum resources tax, have played a significant role in the overall contribution to government revenue as they apply to profits. The formula used to calculate the tax payable under the legislation before us means that the take-home profit of the miners under the MRRT excludes such things as state royalties. We have heard from other senators about New South Wales and WA, stating that they will be putting up their royalties and, hence, affecting the take-home pay of the federal government as a result, all because the federal government thinks the Constitution is a piece of paper not worth noting. The government did not include the states in its conversation and has now had to amend the terms of reference for the GST distribution review to include an examination of its own legislation's impact on revenue.

Other issues raised in the coalition senators' dissenting report were around the proposed linkages, such as superannuation and company tax. This goes directly to the concept of balancing the budget. The 2013-14 budget deficit, as result of this legislation—and I think the lack of consultation has played into the fact that this will occur—will be about $3.5 billion. For those of us in the chamber concerned about the National Disability Insurance Scheme, that $3.5 billion is about half of it saved right there in one fiscal year if we do not implement it—not money coming in but money saved if we do not implement this. As the costs of the linked measures rise, the input from the profit is essentially going to decline, setting up a future of fiscal challenges. This is the 'little red tax that does not': it huffs and it puffs and it tries its best, but it just does not deliver. It is hardly surprising.

What does surprise me, though, is that the champions of small business, and note that I am being sarcastic, the government and their Greens partners—and for a day and a half I have heard how great this will be for small business—are giving the tax cut to only 25 or 30 per cent of those working in small business, as the tax cut only applies to those entities when they are companies. Regarding the small business community such as that of my own family and, I am sure, many of us here and in the community, those with a company structure make up only 30 per cent. So please do not tell me that Labor 'gets' small business, because this shows that they do not. What a surprise: a quick political fix which, because it is not part of a holistic overhaul of the taxation system, ends in fiscal failure again for this government intent on getting it wrong, it seems, every time.

I have listened to the debate and am surprised by the commentary of those opposite. The underlying assumption at the current time seems to be around the language of 'big', 'bad', 'rich'—insert sneer—'dirty'—borrowed from the carbon tax debate—miners who can afford to pay more, so let's make them. The Australian voter is being duped into believing that these companies and individuals do not already pay tax and do not already contribute.

I was really pleased to see Senator Gallacher commenting so wonderfully about the contributions that miners have made to our communities over time

in this country. I love that we are not entitled to make a profit! Whilst there are issues with FIFO, let's deal with those rather than assuming this will be the fix for it. I have digressed.

The government's commentary is insulting. It is belittling, it is mediocre and it is benign. If taken up, this rhetoric moves beyond the pages of *The M onthly* and this chamber and will risk turning Australia into a very beige version of the 1970s Eastern Europe. This government and its Green cronies, through poorly thought out policy, poor consultation and poorly applied and rushed through legislation, do not further the national interest as they intend; rather, through a smoky haze of political uncertainty, they seek to architect social change right under our very watch. Of course Australians need to ensure there is a contribution from the extraction of our minerals. I just do not think this is the way to go about it.