

Legislative Council

Thursday, 28 November, 1968

Sydney Cove Redevelopment Authority Bill (third reading)—Hunter Valley Flood Mitigation and Hunter Valley Conservation Trust (Amendment) Bill (third reading)—Mines Inspection (Amendment) Bill (third reading)—H.M.S. Endeavour Trust Fund Bill (third reading)—King George V and Queen Mary Maternal and Infant Welfare Foundation (Amendment) Bill (third reading)—Landlord and Tenant (Amendment) Bill (first reading)—Stamp Duties (Amendment) Bill (first reading)—Printed Question and Answer—Questions without Notice—Land Tax (Amendment) Bill (second reading)—Stamp Duties (Amendment) Bill (second reading)—Special Adjournment.

The PRESIDENT took the chair at 4.28 p.m.

The Prayer was read.

SYDNEY COVE REDEVELOPMENT AUTHORITY BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. B. M. Fuller.

HUNTER VALLEY FLOOD MITIGATION AND HUNTER VALLEY CONSERVATION TRUST (AMENDMENT) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. B. M. Fuller.

MINES INSPECTION (AMENDMENT) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. F. M. Hewitt.

H.M.S. ENDEAVOUR TRUST FUND BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. B. M. Fuller.

KING GEORGE V AND QUEEN MARY MATERNAL AND INFANT WELFARE FOUNDATION (AMENDMENT) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. F. M. Hewitt.

LANDLORD AND TENANT (AMENDMENT) BILL

FIRST READING

Bill received from the Legislative Assembly and, on motions by the Hon. F. M. Hewitt, read a first time and ordered to be printed.

STAMP DUTIES (AMENDMENT) BILL

FIRST READING

Bill received from the Legislative Assembly and, on motions by the Hon. J. B. M. Fuller, read a first time and ordered to be printed.

SUSPENSION OF STANDING ORDERS

Suspension of certain standing orders agreed to, on motion by the Hon. J. B. M. Fuller.

PRINTED QUESTION AND ANSWER

COMPANIES: TAKE-OVER PROCEDURES

The Hon. J. C. MCINTOSH asked the VICE-PRESIDENT OF THE EXECUTIVE COUNCIL—(1) Has the Minister's attention been directed to the illuminating statement by Mr R. J. Ellicott, Q.C., on "first come first served" bids for company shares and the timely and justifiable criticism of such practice and its abuses, by the financial editor as appeared on page 22 of the *Sydney Morning Herald* of 13 November, 1968? (2) Is it correct, as set out in Mr Ellicott's statement, that the carefully devised provisions of the Companies Act could be avoided and a company taken over without the protection which the Act affords to shareholders? (3) Is it also correct, as set out in the financial editor's statement, (a) that the growth of "first come" bidding must be considered as a scandal in that it

is being condoned and encouraged with open eyes by a large public institution, the stock exchange? (b) that members of the exchange directly benefit from the practice in that they get double brokerage out of it in a way that they do not usually get from orthodox takeover procedures? (4) If these statements are correct, will the Minister take up with the Government the question of requesting the stock exchange to institute immediately regulations not only to protect the small shareholder but to restore confidence in the market on the basis as outlined in Mr Ellicott's statement, and failing such action being taken which is considered satisfactory by the Government, will the Government immediately take legislative action to protect shareholders in a takeover situation?

The Hon. J. B. M. FULLER replied—(1) The Attorney-General has seen a report in the *Sydney Morning Herald* dated 13th November, 1968, under the heading "First come bids criticised by Q.C." of an address given by Mr R. J. Ellicott, Q.C., to the New South Wales Branch of The Institute of Directors, together with an accompanying article by the financial editor of that newspaper.

(2) The uniform Companies Acts do not purport to regulate all offers by or on behalf of a corporation to acquire shares in another corporation but only those offers which, if accepted, will result in a transfer of the "control" of that other corporation. The criterion selected by the Acts for determining what constitutes "control" of a corporation is one-third of the voting power. Thus the Acts operate in relation to schemes involving the making of offers for the acquisition by or on behalf of a corporation of any shares in another corporation which (together with shares, if any, already held beneficially by the first-mentioned corporation or by any other corporation deemed to be related to it) carry the right to exercise, or control the exercise, of not less than one-third of the voting power at any general meeting of the other corporation. In respect to these offers the provisions of the Acts are designed to ensure that—(a) the shareholders in the offeree corporation are given adequate time and information in order properly to assess

the terms of the offer and to seek appropriate advice should they find this necessary; (b) the directors of the offeree corporation are given adequate notice of the intention to make a takeover offer and of its term in order that they may give their shareholders the benefit of their views on the offer and certain other information which the Acts require them to give to their shareholders.

The expression "first come first served bid" is used to describe a transaction in which a person, usually a member of a stock exchange, addresses a circular letter to all shareholders in a corporation intimating that he has been instructed by a principal, usually unnamed, to purchase a specified number of shares in the corporation, being a proportion less than one-third of the share capital, at a price pitched somewhat in advance of the market price. The circular advises the shareholder that should he wish to take advantage of the opportunity to dispose of his shares he should instruct the member of a recognized stock exchange through whom he has been accustomed to dealing, to offer his shares to the agent at the price indicated. The circular intimates that offers from shareholders will be dealt with strictly in the order in which they are received; in other words, on a "first come first served" basis.

No legal objection could be raised if the matter went no further than this, since less than one-third of the voting power of the corporation would be involved. It has been suggested, however, that the circular letter frequently is only one step in a series of steps designed to result in more than one-third of the voting power being acquired by the principal on whose behalf the circular has been sent. First, the principal, prior to the issue of the circular, may already have acquired large parcels of shares through transactions on the market or through offers made to large shareholders, including institutional shareholders. Second, although the circular evinces an intention to acquire only the number of shares therein specified, the person issuing the circular is not precluded from accepting all shares that may be offered to him. Finally, the principal can make a formal

takeover offer in relation to all or any of the outstanding shares at a lower price than that which he has paid for the shares earlier acquired. By this means not only may the shares be acquired at a cheaper price than would have been the case had a formal takeover offer been made for all of the shares involved, but shareholders will have disposed of their shares without the benefit of the advantages which the Acts contemplate their receiving and at a price which differs according to the circumstances under which they disposed of them.

Mr Ellicott is reported as having said that each of the sixteen "first come first served" approaches over the past year was conveyed in a form which did not constitute an offer at all but an offer to treat; that it would seem that such bids are not caught by the provisions of the Companies Acts, and that if this view be correct there is no limit to the number or percentage of shares which could be the subject of a "first come first served" takeover bid. If Mr Ellicott's view be correct—as to which the Attorney-General does not consider it appropriate to comment—then both in relation to the situation envisaged by Mr Ellicott and in the circumstances outlined above, it would be correct to say that the provisions of the Companies Act would be avoided and a company would be taken over without the protection which the Act affords to shareholders.

(3) (a) The Attorney-General is not disposed to categorize as scandalous, conduct which does not involve the participants in any breach of the existing law. If "first come first served" bids are made in such a manner as to involve an offence attracting penal consequences the offenders should be prosecuted. If the law is defective in providing the degree of protection which considerations of fair dealing suggest should be afforded shareholders, the law should be amended, (b) The by-law of The Sydney Stock Exchange which regulates approaches by a member to persons who are not clients of the member—and which is uniform throughout Australia—provides that a member firm may issue on its letterhead, offers to acquire

shares on behalf of one company, person or group to all shareholders of another company, provided that the letter of offer includes a statement that acceptances may be lodged through—(a) the offeree's own broker, or (b) any member of a recognized stock exchange, or (c) the office of the offeror or member firm acting for him.

It will thus be seen that a member firm who makes an approach of this kind will earn both a buying and selling commission only where the shareholder lodges his acceptance with that member firm. Circulars of the kind mentioned normally include a statement to the effect that "only shareholders not being clients of other stock exchange member firms may contact us direct". On the other hand, where orthodox takeover procedures are observed, members of the stock exchange, unless retained for some special purpose such as underwriting the offer, do not derive any commission in connection with the takeover.

(4) Mr Ellicott is reported as having suggested that control of "first come first served" bids could be exercised through by-laws of the stock exchange covering—(a) provisions for notifying in advance the directors of the company whose shares are to be traded; (b) the identity of the bidder to be published; (c) fix a time for reply by shareholders sufficient to enable the company to give information and advice if it wishes; (d) where there is a limited number to be acquired provide for acceptance on a pro rata basis; (e) ensure that the price shall not be less than prices at which the bidder has purchased shares in recent side deals. Control of a corporation through the acquisition of a large parcel of shares can be attained not only by a formal takeover offer or a "first come first served" bid but also by means of—(a) purchases on the market either over a period or as a result of a broker indicating on the floor of the exchange that he is a buyer for a certain quantity of shares at a certain price, for example, the same quantity and price as he may otherwise have specified in a "first come first served" circular; (b) offers to large shareholders whose aggregate shareholdings constitute a controlling interest; (c) offers from the persons referred to in (b).

Most of the unfortunate consequences that are rightly said to flow from those "first come first served" bids which are designed to secure control of a corporation, could also result from control acquired by any of the other three methods mentioned. An obvious difference is that "first come first served" bids are designed to induce haste on the part of the shareholders concerned; another is the fact that such bids are made openly. The solution advanced by Mr Ellicott, though perhaps appropriate in dealing with bids of the kind to which his address was directed, would have little or no application to other transactions having a similar effect.

The Attorney-General is disposed to the view that a solution which attempts to cover all aspects of the problem should be sought. He does not consider that amendment to the regulations of the stock exchange provides such a complete solution. A member of the stock exchange instructed to acquire a proportion of the issued capital of a corporation carrying less than one-third of the voting rights is not necessarily aware whether a genuine attempt to acquire that proportion of shares and no more is involved, or whether it is only one step in a series of steps designed to secure control. In addition, the Attorney-General is not convinced that if the association of members of the stock exchange with "first come first served" bids were regulated or prohibited it would not be perfectly feasible for such bids to be made without utilizing the services of a member of the exchange.

The problem is a complex one, but only one of a number of complex problems relating to takeover offers which the Standing Committee of Attorneys-General considered at its meeting in Perth last month. At that meeting all of the problems known to exist in this area were referred to the Company Law Advisory Committee under the chairmanship of Mr Justice Eggleston for consideration. It would be unwise to consider the introduction of any amending legislation until the views of that committee are made known or to do so except in concert with other States and Territories of the Commonwealth.

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QUESTIONS WITHOUT NOTICE

ROAD SAFETY

The Hon. JAMES CAHILL: I direct a question to the Vice-President of the Executive Council. Is it a fact that among the record number of road deaths this year, including the two young children killed in this city yesterday, there were a large number of pedestrians? Is it a fact, also, that many of these deaths have occurred on pedestrian crossings? Is it a further fact that many of these crossings could be more clearly defined for the benefit of motorists and the safety of pedestrians? In addition, is it a fact that many streets, main roads and highways are badly illuminated at night, tending to increase the danger? If these are facts, will the Minister seek the co-operation of all responsible authorities to ascertain whether some improvement can be made to the present unsatisfactory position?

The Hon. J. B. M. FULLER: It is a fact that a number of road deaths have occurred on pedestrian crossings. This has been happening for some considerable time, and naturally the State authorities are concerned not only with the general road toll but also with the fact that many fatalities occur on pedestrian crossings. In addition to the work that the Government is doing in the interests of road safety, a number of well-known organizations such as the Road Safety Council of New South Wales, are doing remarkably good work in this field. Honourable members will have noticed from the budget papers that an allocation is being made this year for the establishment in this State of an institute associated with the Department of Motor Transport to investigate road safety. Other associations such as the National Roads and Motorists Association and similar road organizations are at all times doing their utmost to reduce the road toll by trying to have the conditions for pedestrians and drivers improved as rapidly as possible.

This is a world-wide problem and honourable members will appreciate that it is associated with the general development of our country. They will appreciate that large capital expenditure is called for in

fields such as education and health, as well as road works, and that priorities must be arranged. The honourable member will agree that it is not quite as easy as we should like to bring our roads up to first-class standards.

CHILD WELFARE

The Hon. EDNA S. ROPER: I direct a question to the Minister for Child Welfare and Minister for Social Welfare. Has his attention been directed to the *Daily Mirror* of 27th November which carries a caption "Baby in Gaol—Bath time at Long Bay" and publishes a photograph taken at Long Bay Gaol? I ask the Minister whether approval was given for the *Daily Mirror* photographer to enter Long Bay gaol to take this photograph. If approval was given, who gave it?

The Hon. F. M. HEWITT: Speaking for myself and on behalf of my department, I can say that any publicity in relation to children in any circumstances which might be regarded as detrimental to their welfare in later life is avoided in every case. The matter referred to by the honourable member does nothing more than pander to a situation in the community which I personally deplore. Gaols come within the administration of another Minister so I cannot answer specifically that part of the honourable member's question relating to Long Bay gaol, except to say that the matter she mentions would not be encouraged by my department in any shape or form.

TRAFFIC SIGNALS: PITTWATER ROAD AND RYDE ROAD, GLADESVILLE

The Hon. J. N. THOM: I ask the Leader of the Government a question supplementary to that asked by the Hon. James Cahill. Is he aware that serious accidents and many minor prangs are happening at the intersection of Pittwater Road and Ryde Road, Gladesville? Will he take up this matter with the Minister for Transport with a view to speeding up the installation of traffic signals which were promised at least twelve months ago?

The Hon. J. B. M. FULLER: I will refer the honourable member's question to my colleague the Minister for Transport.

EMPLOYMENT

The Hon. R. B. MARSH: I direct a question to the Vice-President of the Executive Council. Is the Minister aware that as a result of competition from overseas companies in the manufacture of rolling stock such as ore waggons, the future employment of approximately 4,000 workers in these industries in New South Wales could be in jeopardy? Will the Minister investigate this matter with a view to protecting Australian industries and ensuring full employment in New South Wales of an efficient work force?

The Hon. J. B. M. FULLER: Anything to do with the maintenance of present standards in industry and its expansion in this State is naturally my concern, as is also the manufacture of ore waggons referred to by the honourable member. We shall look at the question and see what can be done. As I said the other night, New South Wales has the highest rate of employment of any State in the Commonwealth. The Government is proud of this and it will do everything possible to maintain the lead of New South Wales in this regard.

STREET LIGHTING

The Hon. W. T. MURRAY: I ask the Vice-President of the Executive Council whether his attention has been directed to a report in the *Sun-Herald* of Sunday, 24th November last, in which a street lighting expert, Mr H. Turner, senior lecturer in the School of Traffic Engineering at the University of New South Wales was quoted as having described the street lighting in the Sydney metropolitan area and in New South Wales generally as being "incredibly bad". Is the Minister aware that in the same article a visiting street lighting expert, Professor J. B. de Boer from Holland was quoted as having said that "Australian street lighting was not acceptable by European standards"? In the same article Mr Turner was quoted as having said: "It is fair to say that our best standard of street lighting is lower than that in Britain and Europe" and

that our street lighting should be improved to "three or four times the illumination we have now", and also that "taken on average _____",

The PRESIDENT: Order! The honourable member is giving information, not seeking it.

The Hon. W. T. MURRAY: I am quoting. I will ask the Minister whether he agrees with the remarks and what action he will take.

The PRESIDENT: Order! The honourable member in asking a question must seek information, not give it. Also, he must not quote too extensively.

The Hon. W. T. MURRAY: Is it a fact, also, that local government has since 1937 been seeking for the Department of Main Roads to take over the responsibility for the lighting of all main roads throughout the State? Is the Minister aware that the cost of lighting of main roads in most other countries in the world, including all the major nations, is met by centralized government and not by local government?

The Hon. J. B. M. FULLER: On a point of order. The Hon. W. T. Murray has paid me the courtesy of giving me a copy of his question, which runs into a number of foolscap pages. He has given me also a copy of another long question that he intends to ask without notice. I suggest that it is making a travesty of question time to ask lengthy questions of this nature.

The Hon. R. R. DOWNING: On the point of order. There is no justification for the Minister's making that statement. If the Minister considers the question to be too long or too involved, the proper thing for him to do is to suggest that it be placed on the notice paper, and not to make a deprecatory remark that it is making a travesty of question time.

The PRESIDENT: Order! I ask the Hon. W. T. Murray to keep his question short. It is an abuse of question time to ask questions in which lengthy information is given. In view of the Minister's objections, I think

that it would be better if the Hon. W. T. Murray placed his question on the notice paper.

The Hon. W. T. MURRAY: May I ask another question?

The PRESIDENT: Yes, as long as it does not run into a number of foolscap pages.

LOCAL GOVERNMENT EMPLOYEES' INDEMNITY

The Hon. W. T. MURRAY: I wish to ask the Minister for Decentralisation and Development and Vice-President of the Executive Council a question without notice. Is the Minister aware of a recent decision of the High Court in a case where an employee of the Blue Mountains city council was sued by a member of the public for injury and damages occasioned while the employee was carrying out his duties as a member of the staff of that council? Is the Minister aware also that the decision of the High Court in this particular case, known as *Vanderheld v. Hudson*, was that employees have no protection under section 580 of the Local Government Act, which is designed to indemnify employees against personal liability in matters where legal action arises as a result of their activities as employees of councils? The case in question was one in which a member of the public was involved in a motor vehicle accident with an employee of the Blue Mountains city council when driving a council vehicle. The plaintiff failed to take action in the matter until after the prescribed period of twelve months under the Local Government Act had expired. Action against the council therefore was not possible and such action was directed entirely against the employee concerned. The High Court held that the employee may be sued in his own person.

The PRESIDENT: Order! The honourable member is doing what I asked him not to do, namely giving information.

The Hon. W. T. MURRAY: Will the Minister take action to ensure that suitable amending legislation is introduced with a view to overcoming the obvious anomaly which exists in the Local Government Act

in this regard, and thus make certain that all causes for legal action arising from acts which employees of councils may perform in the course of their duties will be indemnified by their employing councils?

The Hon. J. B. M. FULLER: I suggest to the Hon. W. T. Murray and to any other honourable member who has a lengthy question to ask today that they put them on the notice paper. I shall not answer any questions of this nature off the cuff.

BUNNERONG ROAD PEDESTRIAN CROSSING

The Hon. L. A. NORTH: I wish to ask a question without notice of the Minister for Decentralisation and Development and Vice-President of the Executive Council. Following the tragic deaths of two young boys at Bunnerong last night, and what I understand to be repeated requests from the Bunnerong Hostel residents that the pedestrian crossing be moved on account of its dangerous position, will the Minister, as a matter of urgency, take up with the Minister for Transport a request that the repeated pleas of these residents be acceded to?

The Hon. J. B. M. FULLER: I shall refer that question to my colleague, the Minister for Transport.

OMNIBUS SERVICES: CENTRAL RAILWAY

The Hon. L. E. SCHOFIELD: I ask the Minister for Decentralisation and Development and Vice-President of the Executive Council a question without notice. Are the buses on the route from Central Railway to Circular Quay failing to run to time? On the arrival of the *Flyer* from Newcastle, does a bus usually leave Central Railway for Circular Quay shortly before passengers are able to get to the bus stop? Is it correct that on the arrival of the 3.36 p.m. *Newcastle Flyer* on time on Tuesday, 26th November, 1968, passengers waited sixteen minutes for a bus on this route and when one did arrive quite a number were required to stand? If the answers to the

foregoing are in the affirmative, will the Minister please confer with the Minister for Transport with a view to ensuring that in future these services are run to suit the convenience of the public?

The Hon. J. B. M. FULLER: If the honourable member places that question on the notice paper, I shall give consideration to an answer.

LAND TAX (AMENDMENT) BILL

SECOND READING

The Hon. J. B. M. FULLER (Minister for Decentralisation and Development and Vice-President of the Executive Council) [4.55]: I move:

That this bill be now read a second time.

The primary intention of this bill is to give effect to the Government's election undertakings to increase the rebate of land tax on certain lands used for primary production as a first step towards the elimination of the tax on all lands used for this purpose over the next three tax years and to exempt from tax, lands which comprise only a home-maintenance area. In addition, the bill includes amendments to the Land Tax Management Act and the Land Tax Act to provide for the further concessions announced by the Premier and Treasurer in his Budget speech and for certain other amendments of an administrative nature.

Briefly, the concessions included in the bill provide for an increase to 33½ per cent of the existing 15 per cent rebate of the land tax payable on certain lands used for primary production; an increase to 10 per cent of the existing 5 per cent rebate allowed in respect of the tax payable on all other lands; the lifting of the statutory exemption limit for land used for primary production to \$45,000, reducing on the existing basis of \$3 for each \$1 for values in excess of this amount to nil for values of \$60,000 or more; and the extension to registered sheep studs catering for other breeds of stud sheep of the special deduction at present allowed, at the rate of \$18

for each stud merino ewe owned, in the assessment of the tax payable by registered merino sheep studs.

These concessions, the first two of which involve amendment of the Land Tax Act and the other two of the Land Tax Management Act, will take effect from the 1968-69 land tax year beginning on 1st November last. I might mention that the question of exempting home-maintenance areas from land tax was examined in considerable detail by the Government. As the implementation of this undertaking would have involved a number of difficult legal and administrative problems and as the Government had already announced its intention progressively to phase out land tax on land used for primary production, it was decided to honour this undertaking by increasing substantially the statutory exemption limit applying to primary production land. At present such lands are completely exempt for unimproved values of \$34,500 or less and this exemption reduces by \$3 for each \$1 in excess of \$34,500, so that no exemption is available for values of \$46,000 or more. The proposed new exemption limit of \$45,000 cutting out at \$60,000 will ensure that virtually all home-maintenance areas are exempt from land tax.

The first of the administrative amendments of the Land Tax Management Act contained in the bill is designed to permit the Commissioner of Land Tax to exchange confidential information relating to taxpayers with Commonwealth taxation officials. Provision exists in the Commonwealth Income Tax Assessment Act which would permit the supply of information for official purposes by the Department of Taxation to the Land Tax Office, conditional upon that office being authorized by law to reciprocate. Although public service regulations were amended in 1964 with this object in view, this amendment could not override the secrecy provisions of the Land Tax Management Act which forbid the disclosure of information obtained under the Act's provisions, even to a court, except for the purposes of the Act. Action has already been taken to amend the Stamp Duties Act to empower the Commissioner of Stamp Duties to exchange information

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with officials of the Department of Taxation, and as it is highly desirable that all State taxing authorities be placed on the same basis, it is proposed to give the same authority to the Commissioner of Land Tax as an aid to the administration of the land tax legislation.

The amendment to section 9A of the Land Tax Management Act is designed to overcome an anomaly that has arisen in the operation of the section in certain circumstances. As honourable members will be aware, section 9A relates to the postponement of portion of the land tax that would otherwise be payable in those cases where the unimproved value of land, which is the site of a single dwelling-house, has been unduly increased by reason of its being zoned for industry, commerce or the building of high density dwellings. It is similar to section 160c of the Local Government Act, which operates to postpone council rates in the same circumstances. In each case the amount of the charge to be postponed is related to the attributable part of the unimproved value occasioned by the re-zoning. It is necessary for this attributable part to be determined by the valuing authority. This is usually done after the commencement of the council year on 1st January.

No problem arises when the part of the value to be excluded from rating or taxing has been determined at or before the commencement of a land tax year because the taxpayer is able to obtain an immediate benefit in his land tax assessment. When, however, a valuation has been used for the assessment of land tax and the part to be excluded is not determined by the valuer until after the commencement of the land tax year, as the section now stands, the taxpayer is unable to obtain any benefit until the following land tax year. This was not the intention of this section and the amendment now proposed will enable the commissioner to apply the determination of the attributable part retrospectively so that the taxpayer will obtain the full benefit of the section in the year in which the new valuation is applicable for land tax purposes. Because of the existence of the anomaly mentioned, approval was given for

the commissioner to apply the determination of the attributable part retrospectively from the commencement of the 1966 tax year. Accordingly it is proposed that the amendment should take effect from the 1st November, 1966, in order to validate the administrative action already taken.

The remaining amendment included in the bill concerns section 47 of the Land Tax Management Act which relates to the securing of outstanding tax on lands owned by the taxpayer and the original intention of the legislation was that the total amount of the tax was secured on each and every parcel of land owned by the taxpayer. However, in a recent case, the High Court ruled that, contrary to the original intention, land tax, until paid, is secured on each parcel of land owned by a taxpayer in the proportion that the taxable value of each parcel compares with the taxable value of all the taxpayer's holdings. The court's decision means that the Commissioner of Land Tax can recover only a proportion of outstanding tax on the sale of each parcel of land instead of the total amount due on all parcels owned, as originally envisaged. The proposed amendment is designed to establish formally the original intention of the legislation.

Opportunity has also been taken to include in the amendment authority for the commissioner to release from any accumulated tax liability part of the land owned by a taxpayer on payment of a proportion of the tax estimated by the commissioner to be attributable to such parcel. The purpose of this amendment is to give legislative sanction to administrative procedures which have been adopted to facilitate land dealings, particularly those relating to home sites. This amendment will operate with effect from 31st October, 1968. This completes my review of the bill, which I commend for the favourable consideration of honourable members.

The Hon. R. R. DOWNING (Leader of the Opposition) [5.4]: The Minister has explained the purposes of the bill. I wish to make a few comments on them, too. First the bill will increase from 15 per cent to 33 per cent the reduction in the tax applied to primary production lands.

The present exemption limit is \$34,500, cutting out at nil at about \$46,000, by applying a \$3 to \$1 reduction above \$34,500. The bill will lift the exemption to \$45,000, and, reducing by \$3 for each \$1 above that, it will cut out at \$60,000. The reduction will give a number of primary producers considerable relief. I take it that the increase in the exemption limit from \$34,500 to \$45,000 is in lieu of the exemption on home-maintenance areas that was promised in the Premier's last policy speech.

The Hon. J. B. M. FULLER: It covers all home-maintenance areas.

The Hon. R. R. DOWNING: It will cover reasonable home-maintenance areas, although due to the natural condition of the land in some areas the unimproved capital value is higher there than in other parts of the State and will still be subject to land tax. During the last State elections Labor promised that if returned to power it would abolish land tax for a period of at least three years on all primary production land. Not much money is obtained by the Government from this type of land. Although I have not had an opportunity to check on the figures that Labor prepared for the last election campaign, my impression is that a total of about \$3,000,000 is obtained from land tax on primary production land, with most of this tax money being channelled to the Treasury from urban dwelling land. Possibly not more than 10 per cent of all land tax comes from land used for primary production.

The Minister stated that another provision of the bill will increase from 5 per cent to 10 per cent the rebate allowed on other lands, and special reductions are being extended to registered studs and registered sheep-breeding studs. This provision was included in the original legislation. By the way, New South Wales was the last State in Australia to impose land tax after the federal Government vacated this taxation field some years ago.

It is interesting to compare the amounts of money obtained from this form of taxation. According to the Auditor-General's

Report, in the last financial year Labor was in office, 1964-1965, the total amount of tax collected was \$29,716,000. The following year, 1965-1966 the yield rose to \$34,477,000. The present Government then made some reductions in the tax rate, so that in the following financial year the total received by the Government fell by approximately \$800,000 to \$33,646,346. It is most interesting to note that although the land tax rate was reduced in 1967-68 the yield was an all-time record of \$35,711,000. Higher valuations more than compensated the Treasury for any reductions in the tax rate. Although in every year that this Government has been in office considerable sums of money have been raised in this way—\$4,000,000 was the lowest amount in excess of that collected in Labor's last year in office—the return declined in 1966-67 compared with the previous year, when the return was approximately \$2,000,000 greater. The rise occurred because land was valued at a higher figure.

I anticipate that the Treasurer's estimate of an income from this source of \$34,300,000 in 1968-69, to exceed by \$400,000 the amount actually collected in the past financial year, will not be fulfilled in spite of higher land valuations throughout the State. Indeed it may be said that the history of land tax establishes that reductions in the tax rate have been more than offset by the increased value of land, whether it be urban land or that used for primary production. I am appreciative of the fact that the exemption limit has been extended in respect of primary production land.

As was intimated by the Minister in another place, it is hoped over a period of three years to cut out completely the tax on most of this land. I refer now to section 160c of the Local Government Act, which contains a similar provision. Speaking from memory, where a dwelling-house was on land which was zoned for purposes that made the unimproved value very much higher than would be justified if it were used only for a dwelling-house, and if no relief were given the land would attract a rate out of all proportion to its use, the rate was levied on the value of the land

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for its actual use, which was as a dwelling-house site. If this went on for twenty years, and the occupier stayed in it until his death, then a charge was levied on the land equivalent to five years' rating. If the land were sold when the occupier died, only five years' rates were levied as a charge on the land.

I wish to know whether a similar principle has been adopted in regard to land tax. If land on which there is only a dwelling-house attracts land tax, and it is continuously occupied for twenty or twenty-five years by the same person, is the land tax that has accrued over those years a charge against the land when it eventually ceases to be used as a dwelling? If that is so, the Government is only deferring the tax. If a provision similar to section 160c of the Local Government Act applies, and there is a charge for a period of only five years, this would be reasonable enough. I do not suggest that it should escape all land tax. Section 160c of the Local Government Act is a reasonable provision; it takes in only a certain number of years. I had hoped to check the provisions of the bill, but I ask the Minister whether he will explain the position.

Colonel the Hon. Sir HECTOR CLAYTON: I do not think this bill make any provision for it.

The Hon. R. R. DOWNING: That is what I am concerned about. If someone lives in the place continuously for thirty years, and there is an accumulation of land tax for thirty years, this might be a considerable burden. It is fair enough to forgo the tax with the exception of the tax attributable to the last five years prior to the disposal of the land.

Colonel the Hon. Sir HECTOR CLAYTON: I am in favour of that, from recent experience.

The Hon. R. R. DOWNING: I suggest that such a provision would be reasonable, if people have made the land their home. I submit that the provisions enabling the land tax commissioner to make confidential information available to the income tax commissioner and to other authorities is

proper and reasonable. I have always been against any person evading taxation. I have no qualms about a person's affairs being legally adjusted so as to avoid attracting tax, but straight-out evasion of tax is unfair and is unjust to other members of the community. If it is widespread, as it is in some countries, it means that those who are paying tax, pay a much heavier tax. Having made those remarks, I see no objection to the bill, but I should like to know whether the Minister can answer my question about the attributable part.

The Hon. J. C. McINTOSH [5.15]: I support the bill, but there is one matter which gives me concern, and that is the ever-increasing Valuer-General's valuations which affect not only the basis on which the land tax is assessed but also shire and municipal rates, and particularly water rates levied by the Metropolitan Water Sewerage and Drainage Board, creating intolerable burdens on so many house owners in the low income range in the metropolitan area. In this respect I make the comment that I feel that the whole of the administration of the Metropolitan Water Sewerage and Drainage Board should be a matter of investigation by the Government. However, at this stage I confine my remarks to valuations of rural properties, which are within the ambit of this bill. Primary producers today are faced with the problem of ever-increasing costs and low prices. When one looks at the report of the Royal commission under the chairmanship of Mr Justice Else-Mitchell, one shudders to read:

The claim that rates have reached saturation point is not established . . .

It is plain that local government requires more money and whilst rates on land constitute the most convenient, logical and lucrative means of raising revenue for local government purposes it is equally clear that they should not be the sole source of revenue.

If these statements reflect the future attitude of local government on rates, then taking the present administration of the Council of the City of Sydney as an example, it would appear that the time may come when consideration should be given to the administration of the councils by qualified administrators.

The Valuation of Land Act came into force in 1916 and, because of the costly nature of appeals against valuations, the Country Party was responsible, through its agitation for an amendment to the Act in 1961, for providing for what should have been a simple hearing before a board of review with a right of appeal to the Land and Valuation Court. It has not worked out that way. When appeals are lodged the Valuer-General suggests, some time before the hearing, that a conference be held or that the appellant place before him evidence showing why he considers that the valuation should be reduced. Any appellant who does this is foolish. He places all his evidence before the Valuer-General's representative, who considers it but does not disclose how his valuation is arrived at. The evidence is generally rejected and, before any hearing, the Valuer-General is armed with all the evidence of the appellant. Over the years land valuation has been built into a very specialized practice. With the legal requirement that all sales be furnished to the department, its large, qualified staff deals with the matter and dissects it. Any appellant has an almost impossible and a most expensive task to contest, against the combined resources of the department, any valuation that has been made.

A large number of appeals were dealt with by the board of review in the Bonalbo area after the last valuation. I should like to refer to certain matters arising out of such appeals, with the request that the Government consider making regulations, on the lines suggested, to ensure that justice is done to the appellant. A sale of a property, used as a dairy farm at the date of sale, was used by the Valuer-General. The purchaser, who was carrying on grazing a short distance away, then used the subject property in conjunction with his other grazing property, using also his house and all buildings on his original property. The Valuer-General then, because the house and all structural improvements of an extensive nature on the property purchased were not being used, valued them at a removal value only, and the deduced unimproved value was substantially increased and was then applied to all the other surrounding areas.

I feel that a regulation should be promulgated to provide that the Valuer-General shall value all the structural improvements at the time of sale on the basis of the purposes for which they were being used at the time of sale, or on their value to the vendor for any purpose for which they could be used in the future.

At times great discontent is created among objectors who maintain that their properties have never been inspected, and this complaint may be justified. I feel that a practice has arisen where aerial photos may be relied on too much instead of ground inspection. A regulation should be made that when a property is inspected the owners either should be contacted on the property or a notice should be left advising that inspection has been made that day. It has been the practice at the hearing for evidence of valuation to be given by the Valuer-General's representative from the field books. With the change of valuers it could be that alterations are made in such valuations according to the dissected sales, and in many cases the properties may not have been inspected by the valuer then giving evidence. It is felt that the field books, which should show evidence of inspection and how the valuation is arrived at and by whom, should be made available to the objectors at the hearing.

In one sale of an improved dairy farm the sum of \$4 an acre, the general figure taken by the Valuer-General throughout the area, was applied to the fencing. In the dissection of the sale no regard was paid to the extensive amount of subdivision fencing, so necessary and in existence on the property. This item alone made a big difference in the unimproved value of this property. The production of the field books would have shown whether such fencing had been inspected and the whole of it valued, or whether aerial photos had been relied upon without land inspection. It is considered that the regulations should provide that when giving notices of valuation the improvements should not be lumped together, but each item should be set out separately, such as house, timber treatment, land treatment, water provision, fencing, miles of fencing, and price per

The Hon. J. C. McIntosh]

mile allowed and depreciation, and when an appeal is lodged the Valuer-General should, if required by the appellants, furnish to the appellant a reasonable time before the hearing of the appeal particulars of comparable sales used, dissection of such sales, how the valuation of improvements are arrived at, the cost of improvements and depreciation allowed, and the value deduced from such sales and how this has been applied to the subject property. At the hearing no other valuations than those supplied should be allowed.

I have yet to see the Valuer-General, on dissected present sales, applying today's cost basis on structural buildings, fencing, land treatment, and so on, with the result that the unimproved capital value, which is the basis for rating and land tax, is being continually increased. In giving its decision the board of review should state the sales applied, the dissection of those sales, and the deduced value from such dissection as applied to the valuation objected against. I know that, because a small number of people buy properties for certain taxation benefits, inflated values have been paid for properties, causing a rise in values to the detriment of the legitimate primary producer in the area. This cannot be guarded against, but I believe that any valuations made in the revaluation period and used for rating and land tax purposes should not be increased in any such revaluation period by more than 10 per cent. I support the bill.

The Hon. W. G. KEIGHLEY [5.24]: I support the bill but I have a few observations to make. I agree with the Hon. R. R. Downing, who said that undoubtedly the results achieved at the end of next year will show up the increase in land revenue. Many landholders, graziers, and wheat-growers will find that their land tax has been doubled or even trebled in the year coming up. This will be the direct result of the activities of the Valuer-General. The question I ask is, why as a general principle must the Valuer-General's values be used to compute tax or stamp duty? If one were to ask the Valuer-General on what basis he values land, he would say that he is not concerned with its earning

capacity, the produce, the cost of production, whether a profit or loss has been made, or whether there has been a drought or a flood. He looks at possible comparable sales, does a few calculations as described by the Hon. J. C. McIntosh, and comes up with the unimproved capital value. The result is that in some years, for example, 1968, land is grossly overvalued.

In my own knowledge there are countless cases where properties have come up for sale but have been passed in for want of a purchaser at the sort of price the Valuer-General has led the owner to believe is true. The Valuer-General lives in a world of complete fiction, and it is time this was stopped. Land tax was introduced by those who sit on the benches opposite. If it must be imposed, it should be on the realistic value of the land. I do not know why the farmer should have been singled out and made to foot the bill at a time when he is incurring losses. In recent times farmers have been hard hit by the drought; they have suffered a 40 per cent to 50 per cent reduction in the price of lambs; and have had to endure a similar reduction in the price of some wools. As the Hon. T. P. Gleeson mentioned, the man on the land is not even certain of selling this year's or next year's wheat crops. The only certainty is that the \$1.10 per bushel will be paid, but that may be the first and final payment. In the light of all these things the primary producer earns little. About six weeks ago much was made in the press about the earnings of wheat farmers in the 1966-1967 season. However, nothing was said about the 1965-1966 and 1967-1968 seasons, which were bad seasons in which wheat farmers incurred heavy losses. In the season the article referred to, wheat-growers had a bumper year, and wheat produced was sold. However, in the previous season no wheat was produced, and last year production was low. People get a totally erroneous view of rural industries from this type of article. My theory is that the Valuer-General helps people gain that erroneous impression. I hope that in the future taxes will not be related to the Valuer-General's fictitious values.

The Hon. O. M. FALKINER [5.27]: I congratulate the Government on the extent of the exemptions extended to State industries. This subject has been a hobby-horse of mine for a long time and at last I am seeing it reach fulfilment. I look forward to the not too distant future when we may pay no land tax at all. I should like to enlarge upon the comments of the Hon. W. G. Keighley in regard to the Valuer-General. In fact, I think the honourable gentleman has been kind in merely saying the Valuer-General has a fictitious idea of the worth of land. I cannot see how unimproved values can alter. Land in the unimproved state is as it was when Captain Cook first landed. The only thing that has happened is that now we have roads, communications, controlled water in some areas and irrigation schemes. However, this has not altered the unimproved land. This land has not changed but has remained as it was in its natural state. The so-called unimproved capital value is not an unimproved capital value at all but an amount decided upon by the Valuer-General or some other valuing authority.

Recently in my area in the Riverina the unimproved value of a property was increased from a little over \$3 an acre to more than \$10.50 an acre. This has happened at a time of near drought in that area, when the price of wool has fallen and the price of lambs has fallen. I cannot see how the Valuer-General can justify that increased valuation. I think it has been brought about by estimates and has no relationship to the capacity of the country to produce. Today the earning capacity of land is not as good as it was fifty years ago. Costs have increased many times; in some areas they have increased by twelve or fourteen times since the 1930's. How this man increases values on a so-called unimproved capital value basis by a factor of three, I do not know. I see no justification for it and I do not think anyone else can. I support the bill and I sincerely hope we shall get away from this unimproved capital value and, if we are to pay tax, have it based on some value related to earnings.

The Hon. J. B. M. FULLER (Minister for Decentralisation and Development and Vice-President of the Executive Council)

[5.31], in reply: I am pleased that I have the Hon. R. R. Downing on side with me on this bill. For the sake of the record, as we have been comparing what the Government has been collecting with what the previous Labor Government collected in land tax, it should be pointed out that the Commonwealth Government levied land tax until 1952 when it vacated this field of taxation. I should like to quote the reasons that the federal Government gave for vacating the land tax field. In his second-reading speech on the Commonwealth Land Tax Abolition Bill the Treasurer of the day said that the tax was an unjust and inequitable imposition upon a capital asset and seeing that other capital assets such as plant and machinery were not regarded as proper subjects for the imposition of a tax, the federal Government was unable to agree that land should be singled out for a special imposition. He also intimated that the tax was not achieving the objective for which it was first enacted, which was to force the subdivision of large rural properties and thus cause a wider distribution of the ownership of rural lands. That was in 1952. In 1956 the Labor Government of New South Wales, and incidentally, shortly after an election campaign in which it gave no indication to the people that it proposed to move in this way—though it must have known—introduced land tax.

The Hon. R. R. DOWNING: It was the last State Government in Australia to introduce land tax.

The Hon. J. B. M. FULLER: Labor still did not mention in its election campaign that it intended to introduce the tax. As soon as Labor was returned to power it introduced the tax.

The Hon. R. R. DOWNING: The Government said nothing about this 1 cent in the \$10 tax.

The Hon. J. B. M. FULLER: We have had much pious talk about what people should have done and I mention this for the record.

The Hon. R. R. DOWNING: I shall make the admission about land tax if the Minister will make an admission about turnover tax.

The Hon. J. B. M. FULLER: I have made my point and those who criticize the Government for having to impose land tax will know that in the past Labor made no practical move to assist the primary producer whose situation, as the Hon. W. G. Keighley has said, is vitally in need of easing. We should keep our sights on the attitude that has been taken in the past on a matter such as this.

The Hon. R. R. Downing referred to section 160c of the Local Government Act. Section 9A (2) (c) of the Land Tax Act provides:

The amounts of land tax postponed under this section in any assessment made in respect of the year in which land tax ceased to be postponed under this section and the four preceding years shall become due and payable thirty days after service of notice by the Commissioner.

The Hon. R. R. DOWNING: That brings it into line with the Local Government Act.

The Hon. J. B. M. FULLER: It means that the provision is almost identical with the provision of the Local Government Act. The question raised by the Hon. W. G. Keighley is a real problem at present. With the abolition of land tax on rural lands over the next three tax years, as intended by the Government, most of the problems about which the Hon. W. G. Keighley is worried will disappear. The question of rates will be in the hands of shire councils. They will have to adjust their rates as land tax goes out. That should ease the situation to a considerable extent. I am personally sorry that it is not possible for the Government to abolish completely land tax on primary producing land in this tax year but we hope before long it will not apply to rural land.

The Australian Corriedale Association has not been included in proposed new paragraph (d) of section 9 (3). When we are dealing with the bill in Committee it may be necessary to move an amendment to ensure that the association is included among recognized registries of flocks. I am pleased to see such accord with the actions being taken to reduce the level of land tax on

farmers and other land tax in the extent of an increase of only 5 per cent on the existing figures.

Motion agreed to.

Bill read a second time.

IN COMMITTEE

Clause 2

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British Sheep, the Poll-Dorset Association, the Polwarth Sheepbreeders' Association of Australia, the Australian Zenith Sheepbreeders' Association, the Perrendale Sheepbreeders' Society, the South Suffolk Sheepbreeders' Association or any other sheepbreeders' association or society where the Commissioner is satisfied that such other association or society is a recognised registry of a flock of any breed of stud sheep;

The Hon. E. K. E. VICKERY [5.37]: I move:

That at page 4, line 1, after the word "Sheep," there be inserted the words "the New South Wales Branch of the Australian Corriedale Association,".

I do not want to do anything that will unduly delay this legislation but in fairness to the Australian Corriedale Association, of which I have been chairman of the State organization as well as federal president, I should point out that this breed has done much for sheep in Australia and should be officially recognized in this legislation, I know the Leader of the Opposition realizes the number of corriedales bred in the Goulburn district and the amount of good that the breed has done for Australia overseas. I urge the Committee to accept the amendment.

The Hon. J. B. M. FULLER (Minister for Decentralisation and Development and Vice-President of the Executive Council) [5.38]: I am quite happy to accept the amendment. The paragraph contains provision that where the commissioner is satisfied that such other association or society is a recognized registry of a flock of any breed of stud sheep, he may recognize it, but provision should be made to give this breed special mention. I think it unfortunate

that solely by accident the best known Australian breed was eliminated. It is fitting that it should be included.

Amendment agreed to.

Clause as amended agreed to.

ADOPTION OF REPORT

Bill reported with an amendment, and report adopted, on motions by the Hon. J. B. M. Fuller.

STAMP DUTIES (AMENDMENT) BILL

SECOND READING

The Hon. J. B. M. FULLER (Minister for Decentralisation and Development and Vice-President of the Executive Council) [5.41]: I move:

That this bill be now read a second time.

The main purpose of the bill is to give effect to the proposals that were announced by the Premier and Treasurer in his Budget Speech relating to the new form of stamp duty on receipts, the increase in duty on motor vehicle certificates of registration and concessions in respect of credit arrangements, credit-purchase agreements and hiring arrangements. The bill also includes provisions relating to maximum loss policies of insurance, assignments of mortgages and hire-purchase duty. The first of these dealt with in the bill is the change in the stamp duty on receipts. Although this measure is being called a turnover tax, this is not a correct description of what is proposed. Honourable members will be aware that under the existing provisions of the Stamp Duties Act, where money amounting to \$5 and upwards is received or a debt of \$5 or more is acknowledged to have been satisfied or settled, a fixed duty of 3 cents applies where the amount is between \$5 and \$200 and 10 cents where it exceeds \$200.

Under the new provisions an *ad valorem* rate of 1 cent for each \$10 or part will apply in lieu of these fixed rates. This is the same rate as that which applies in Victoria and Western Australia and is to be applied, from next year, in Tasmania and South Australia. All persons, including companies, carrying on a business, trade or profession; other bodies, corporate

or unincorporate which are not specially exempted; and other classes of persons, who might be specially declared for the purpose, will be required to pay duty on all receipts irrespective of the amount. Since the present exemption in respect of cash sales dockets issued in a retail establishment will no longer apply, retailers will be placed in the same position as wholesalers, manufacturers and other business groups. Duty may be paid by the persons concerned in one of three ways. They may affix a stamp to a receipt in each case; have their receipt forms pre-impressed with duty; or lodge a periodical return with the Commissioner of Stamp Duties. This latter method will give both monetary and administrative advantages to the taxpayer and it is envisaged that most persons in the categories I have mentioned will elect to pay duty on this basis.

The bill empowers the commissioner to fix the period for which returns are to be furnished and these are expected to be either monthly, quarterly, six monthly or annually, depending on the duty involved. Special arrangements will be made to inform the public of the facilities available for paying duty under the return system. The Commissioner of Stamp Duties will write to all factories, shops and persons using registered business names to explain the proposals and provide application forms to be completed by those wishing to adopt the return system. Professional and business associations will also be asked to co-operate in bringing the new provisions to the notice of members. Persons not falling within the classes I have mentioned will pay duty at the same rate of 1 cent for each \$10, but only on amounts in excess of \$10. It is important to note, however, that where such a person elects to pay on the return system the \$10 exemption will not apply. Although duty will not be payable in respect of domestic payments, such as the payment of housekeeping expenses by a husband to his wife, and gifts not exceeding \$200, duty will be payable when an individual receives moneys from business transactions such as when he sells shares, a car, or a home, or when he receives a bequest.

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Receipts for salaries and wages and payments of a like nature, such as pensions and superannuation, are not subject to duty at present and the bill provides for this exemption to be continued. It is fundamental to this form of taxation that it should apply as widely as possible and that exemptions be kept to the minimum. Obviously if this tax is to yield the revenue anticipated it must have general application, and in this connection the comparatively low rate of 1 cent for each \$10 has been determined on the basis that exemptions would be restricted as far as is practicable and equitable.

In order to avoid continual references to the principal Act, the bill has been drafted so that all existing receipt duty provisions will be repealed and new provisions enacted. Most of the old provisions have been rewritten either in the same form or with some minor variation to comply with the new basis of duty or to overcome some technical difficulty. A number of new provisions are, however, necessary and considerable advantage has been gained from the experience of Victoria, in particular, in drafting the bill.

Special provisions have been included to cover the payment of duty in various circumstances where money is received outside the State. These have been necessary to avoid the creation of avenues for avoidance of duty. At the same time, however, the Government has been anxious to overcome the problem of duty becoming payable by the same party in more than one State on the one transaction. It has, therefore, been decided that duty will apply in respect of payments received outside the State by a person resident or carrying on business in the State for goods supplied or services rendered in New South Wales. Provision is also made for prescribing other classes of transactions to be brought within the scope of duty, should this prove necessary.

In keeping with the overall objective, however, provisions are also included to ensure that, if money is received in New South Wales in respect of goods supplied or services rendered in another State where a similar duty applies, an appropriate allowance is made. The bill, therefore, authorizes a person who pays duty by the return

system to deduct from the amount of duty that would otherwise be payable in New South Wales, the duty paid or payable in another State on the transactions referred to, or the New South Wales duty relative to such transactions, whichever is the lesser. It is hoped that similar principles will be adopted in other States.

Provisions similar to those which have operated with apparent success in Victoria to cover moneys received by solicitors or agents on behalf of their clients or principals, have been included to ensure that duty is payable once only in these cases and these will be set out in the new section 93E of the Act. The solicitor or agent will be responsible for the payment of duty in the first instance. However, a client or principal, who pays duty by the return system, may request the solicitor or agent not to pay duty and the client or principal will then include details in his return. These procedures have been designed to provide the maximum possible flexibility with the object of allowing the parties to adopt arrangements to suit their mutual convenience.

There are other important features of the receipt provisions. One is a specific provision to ensure that a mere exchange of one form of money, as defined, for another form is not dutiable; thus the cashing of a cheque for its full face value and the changing of notes for different denominations will not be dutiable. The existing provisions relating to the issue of receipts have been redrafted to clearly impose an obligation on a person to give or tender a receipt, except where the return system has been adopted. The position in respect of transactions whereby debts are settled other than by the payment of money, for example, by credit being given for the amount of the debt or where consideration other than money is received, has been clarified. Further, a document such as a contract and a mortgage which acknowledges the receipt of the consideration moneys expressed in the document, need not be stamped as a receipt, but this does not exempt the receipt of the consideration from duty.

Another important feature is that where a person on a return system finds some difficulty in precisely ascertaining the

amount on which duty should be paid, the commissioner may accept duty calculated in such manner or on such basis as he thinks proper in the circumstances. This follows a similar provision which was included in the hiring arrangement amendments last year and which has provided a convenient means of overcoming problems which confront the taxpayer in completing his return. Receipts for moneys received by a solicitor or agent in New South Wales on behalf of a client or principal who is not resident or carrying on business in the State or who is exempted from the payment of receipt duty will be exempt, since the client or principal would not have to pay duty had he received the money direct.

Special provisions are also included to cover certain aspects of payments under marketing schemes for primary products. These are designed to avoid the charging of duty on amounts which might be received by the primary producer but must be paid or refunded by him to a fund for the purpose of equalizing payments to producers. Similar provisions are included to cover amounts received as deposits in respect of a tender or in relation to a contract and subsequently refunded. These are set out in the new section 93J of the Act.

The bill also contains a number of exemptions from the duty. The exemptions from stamp duty on receipts which have applied to various bodies and groups under the present legislation have been retained unless there has been some significant reason for departing from the established situation. Since this proposal was first announced, a number of representations for exemption from the duty have been received and these have all been carefully considered. However, as I mentioned earlier, it is essential that the duty be spread as widely as possible and the Government has taken the view that any extension of the present basis of exemption can only be agreed to in special circumstances.

Certain transitional provisions are necessary to cover the payment of duty on amounts received prior to the commencement of the Act. These will also enable a person who has already elected to pay duty on the return system to continue to do so under the new provisions. Other

provisions of an administrative or consequential nature include clauses relating to the stamping of receipts and also penalties for offences against the Act. Penalties have, of necessity, been set at a high level in view of the amount of duty that could become payable in many cases. As with other penalties in the Act, the Commissioner of Stamp Duties is empowered to reduce or remit these where the circumstances warrant. The changes in receipt duty will operate from 1st February, 1969.

The bill also contains concessions in respect of duty on hiring arrangements, credit arrangements and credit purchase agreements. As from 1st February, 1969, no duty will be payable by a person who has elected to pay duty on a hiring arrangement by the return system where the amount received from hirings does not exceed \$400 a month. The previous limit was \$150 a month. This should be of considerable benefit to the many smaller operators in this field. From that date also the exemption limit on credit arrangements and credit purchase agreements will be increased from \$200 to \$400. Under this new limit, a big proportion of credit transactions relating to household goods will no longer be subject to duty.

The bill also contains amendments relating to the duty chargeable on a maximum-loss policy of insurance. It has come under notice that some firms are effecting this type of insurance to cover a number of properties which they own. The basic feature of the policy is that the sum insured as shown on the policy usually relates to the maximum amount of loss which would be sustained if the most valuable building was destroyed by fire. However, in the event of all the buildings being destroyed by separate fires the full amount of the loss would be paid by the insurance company and the premium paid has regard to this amount. The main purpose in taking out this form of insurance is, of course, to reduce the amount of stamp duty payable on the policy. Since the duty is charged on the sum insured under the policy, the view has been held in some circles that stamp duty is payable only on the sum insured as shown on the policy and this

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would relate, as I have said, to the amount of insurance in respect of the most valuable building.

This matter was taken up with the Crown Solicitor, who was of the view that duty could be claimed in respect of all the buildings covered by the policy. The position is not completely free from doubt, however, and the Crown Solicitor has suggested that the Act be amended to ensure that duty would be payable on the total sum insured in respect of all the buildings. I think I should add that the major insurance companies are not in favour of this type of policy because it omits certain safeguards. They are, however, faced with the loss of business because of the comparatively large savings effected by their competitors as duty is at present being paid only on the lower amount. It is obvious that if this type of policy were to be generally adopted, the effect on stamp duty revenue would be serious. It is therefore intended to rectify the position and to place maximum-loss policies in the same position as other classes of insurance as to duty.

Provision is to be made also for a reduction in duty on transfers of mortgages. Under the existing provisions, duty on these transfers is chargeable at the general conveyancing rates of \$2.50 per \$200 or part of the consideration up to \$14,000, and \$3 per \$200 or part on so much of the consideration as exceeds \$14,000. Representations have been received from a number of organizations interested in the establishment of a mortgage market suggesting that the stamp duty charge on transfers is having a strong inhibiting effect on investors' interest in the mortgage market in this State.

A basic objective of an active mortgage market is to increase the flow of money to housing and this is an objective in which the Government has a particular interest. Very little duty is involved at present from this source and if, as suggested, a lower rate of duty stimulated activities in this field, the revenue from this source could be expected to increase. It has been decided, therefore, to reduce the rate of duty on transfers of mortgages to the same level as that which applies on a transfer of shares and debentures, that is, 4 cents per \$10 or

part thereof. This would ensure that prospective investors are not dissuaded by stamp duty factors from investing in mortgages.

The bill provides for the stamp duty on motor vehicle certificates of registration to be increased from 40 cents per \$100 or part thereof to 50 cents per \$100 or part. The bill also includes amendments in respect of the provisions prohibiting finance companies from passing on to hirers the duty on instalment-purchase arrangements. These provisions apply to the duty chargeable on hire-purchase agreements, credit-purchase agreements and credit arrangements but do not extend to discount arrangements and hiring arrangements. In the case of hire-purchase transactions or credit-sale agreements, the maximum charges which may be made are fixed under the Hire-purchase Act and the Credit-sale Agreements Act and finance companies are not able to pass on the duty chargeable on such transactions or agreements by including the amount with other charges. As this is not the case in other types of credit transactions, it has provided some incentive for finance companies to use, where possible, leasing arrangements, chattel mortgages and personal loans in lieu of hire-purchase agreements.

Statistics disclose that there has been a swing away from hire purchase to other forms of credit and it has been suggested that the provisions in the Stamp Duties Act referred to earlier have contributed to this. The Hire-purchase Act and the Credit-sale Agreements Act provide a number of benefits and protection to hirers and it is felt that steps should be taken, where practicable, to encourage the use of hire-purchase agreements and credit-sales agreements to finance credit transactions. It has become obvious that the retention of the provisions prohibiting the passing on of duty is creating a position which is not in the best interests of the persons they were designed to assist, that is, people who buy goods on credit. It has been decided therefore that the provisions prohibiting the passing on of duty should be repealed. The amendments proposed will place instalment-purchase arrangements in the same position as all other types of instruments on which

duty is payable. Consequential amendments to the Hire-purchase Act and the Credit-sale Agreements Act have also been included in the bill.

The final measure included in the bill relates to section 5 of the Stamp Duties (Amendment) Act, 1966. This section involves amendments to the exemptions provided for charitable organizations on cheques, receipts and policies of insurance, which amendments are to come into operation from a date to be proclaimed. Pending action by the Commonwealth Government to meet certain problems associated with the Commonwealth Savings Bank, it has not been possible to put the provisions into force up to the present. However, those relating to the exemption on receipts have now been included in the new receipt provisions and the provisions in the 1966 Act in this regard are to be repealed. To enable the remaining provisions in that Act relating to cheques and insurance policies to be proclaimed on different days should this become necessary, appropriate provisions are included in the bill. It is expected that these will become effective in the very near future. Except where I have indicated otherwise, the various measures will have effect from the date of assent to the legislation. I commend the bill to the House.

Debate adjourned, on motion by the Hon. R. R. Downing.

SPECIAL ADJOURNMENT

The Hon. J. B. M. FULLER (Minister for Decentralisation and Development and Vice-President of the Executive Council) [6.1]: I move:

That this House, at its rising today, do adjourn until Tuesday next.

For the information of honourable members, it is expected that the Stamp Duties (Amendment) Bill should be completed next Tuesday as should the Landlord and Tenant (Amendment) Bill and the Oakdale Mine (Sale) Bill, in that order.

Motion agreed to.

House adjourned, on motion by the Hon. J. B. M. Fuller, at 6.2 p.m.