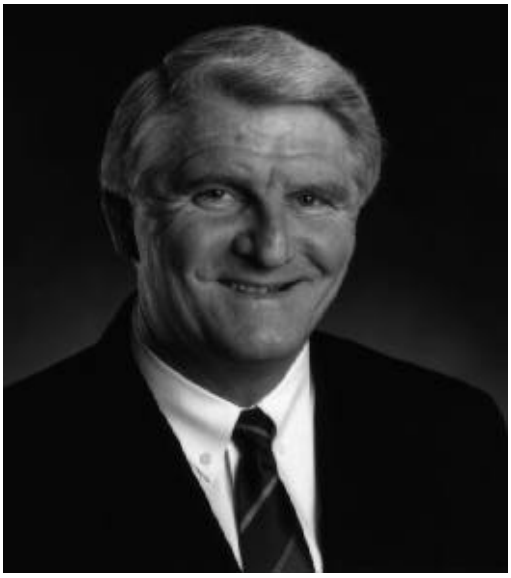

Speech by

Mr M. HORAN

MEMBER FOR TOOWOOMBA SOUTH

Hansard 1 November 2001

DUTIES BILL

Mr HORAN (Toowoomba South—NPA) (Leader of the Opposition) (5.39 p.m.): The Duties Bill before the House is a very substantial and complex bill. The object of the bill is to replace the Stamp Act 1894, which is a very old act that, over the years, has been adjusted and amended. The idea is to replace that act and to modernise the legislation so that it can be understood and so that the various compliance components of it can be administered and adhered to.

This bill is the taxation law for the state, particularly with regards to stamp duties that apply in a number of areas. As I have mentioned already, there is a need to modernise the very old 1894 act. It is intended that the legislation be brought as close as possible to that of similar jurisdictions. These days, a number of transactions take place across state and territory borders. The legislation is designed to reflect modern technology. It is designed to reflect modern business practices. It is designed to reduce the costs of administration and the costs of compliance. It provides for an extension of self-assessment within the legislation. It utilises better language, through the simplification of various provisions, so that it is more understandable.

There is also one other aspect that I wish to speak about and will be touching on throughout the debate, and that is the retention of the revenue base and its potential expansion under this bill. It is that principle which causes us concern. The National Party and I know other parties on this side of the House have as a principle that we do not want to see increased or new taxes. We have already seen that in this state with the imposition of the pub tax to pay for Lang Park. As a principle, we do not want to see new taxes applied or a different dimension to the taxes. People might be able to say, 'It is the same tax because it might have the same name', but if the revenue base is being adjusted or changed that would be of some concern to us.

One of the key points about this is that it is changing the basis of levying the stamp duty from a system based upon an instrument or the execution of an instrument, such as a mortgage document, a release document and so forth, to a transaction base as the trigger for the liability that then flows on. I know that in modern commercial accounting practices many things have moved to a transaction-type system. Despite the fact that this is a big and extremely complex bill, it does not put a fence around those transactions that were covered previously by an instrument. Therefore, any transactions that previously did not attract a duty will now attract a duty. There will be a number of ways in which people will be paying duty now where they did not pay a duty before because of this particular principle of moving from an instrument based system to a transaction based system.

There are some other aspects that I wish to speak about. I wish to speak about the importance of duties to the state as a percentage of its income, because I think that is an important part of the background to this legislation. There are a couple of matters of concern to us. I appreciate the fact that I have received a briefing from the minister's staff. A draft of this bill has been examined by a number of organisations and professional bodies. Some of those bodies, if not all of them, have been asked to comment but only after they agreed to a confidentiality clause. I think that is of some concern, because this is a very complex-type bill. We need to be able to have a good, broad, open and accountable examination of the bill. It is a bill that provides for much of the income of this state. In fact, if my memory serves me correctly, this bill provides for approximately one-third of the taxation revenue that this state raises, so it is very important.

The imposition of this confidentiality clause on people who were commenting on the draft is another example highlighting the secret state that exists in Queensland. This government is using its majority whenever it can to impose subtle or not so subtle pressure on people or groups so that true examination and true open public discussion of any problems becomes more and more difficult and any objections that may arise are perhaps not discussed in the way they should be. That is a concern for us. One of the major principles of this bill is the changing to a transaction process from a process that is based on an execution of an instrument for the liability. I have said that the bill extends the revenue base. It does do that. A number of anti-avoidance provisions in this bill are likely to be a disaster.

I wish to go on to address a few other matters. I have said this before and I will say it again: the bill provides for an expansion of the tax base, but there are not sufficient concessions to offset this increase in revenue. The expansion in the tax base is accompanied by an increase in compliance and administration costs.

The tax base has been expanded in a number of ways, such as the imposition of stamp duty on GST inclusive amounts. We have spoken about that before. We have spoken about stamp duty being imposed not just on the product but on the product plus GST, which gives a dishonest windfall to the government. There will be taxation of unwritten leases, the expansion of the definition of 'hiring charge' to include information, the taxation of the acquisition of business assets as opposed to the acquisition of a business as a going concern, and the imposition of credit business duty on persons as well as businesses. Some other examples of how the bill seeks to tax areas that are not taxed in other jurisdictions include the taxation of written leases, the taxation of wet hires and no exemptions for hiring arrangements between related parties.

I wish to go through some of the background to this bill and speak about some of the amounts of stamp duty brought in to the government as part of its revenue base, because I think it shows that it is a very significant amount and there is the potential to broaden and widen this tax net quite substantially. In the minister's second reading speech he said—

... although the Duties Bill is intended to be revenue neutral—

and I do not believe it will be—

it will, on its commencement, result in a revenue reduction estimated to cost $14.5 million. Some $13 million of this will result from the simplification of mortgage duty.

We do not believe that that is correct. On its commencement it might result in a revenue reduction—we agree with that—but gradually, as it brings in all these other avenues as the net is broadened, we are going to see an expansion of the types of transactions that will become subject to duty. Therefore, we will see an expansion of the tax base and an expansion of the amount of money that is brought into the state. So that is less money in the pockets of Queenslanders and more money in the pockets of the government.

I return to the components of stamp duty revenue. I go right back to the year 1996-97 when it was estimated that some $934 million of stamp duty would be collected. At that time the coalition government was investigating whether it was possible to develop a common national basis for stamp duty. I mentioned earlier that that is part of this bill. That would have potentially had significant advantages for business in terms of reducing compliance costs by harmonising and rationalising the operation of stamp duties throughout the country. To that end, at that time the Office of State Revenue was discussing with other states and territories the capacity for achieving that objective and working on a future rewrite of the Queensland Stamp Act, which is what we are going through here tonight.

The budget for the next year, 1997-98, was showing an estimate of $983 million in stamp duty revenue. Then in 1998-99 it had increased up to a budgeted amount of $1,083 million. We move on to 1999-2000, when total stamp duties were estimated to be $1,262 million, which is a 12 per cent increase. That is just the stamp duties component of the state government's taxation, but honourable members can see that it has been gradually moving through a period—quite substantially—without having to have its tax base increased. If we move on to the next year, 2000-01, we see that it dropped almost five per cent to an estimate of $1,223 million. In the budget for 2001-02 we have a budgeted amount of $1,263 million, an increase of approximately 2.7 per cent. When we look at the pie chart we see that the taxation revenue that comes into the state is approximately 23 per cent of the operating revenue that the state has to work with. In our last budget it was budgeted to be $19.261 billion, and 23 per cent of that would have come from taxation revenue. Approximately one-third of that taxation revenue would be duties.

I think we can see that we are talking about a substantial amount of money here tonight. When we look at the increases that have occurred over the years we see that there has been quite a substantial increase. Going back to 1996-97, it was $934 million compared with the figure in this year's budget of $1,263 million. There has been quite an increase in stamp duty in that relatively short period. At the same time, whilst there has been that continual and gradual growth that comes with an

expanding or growing economy, if we also cast the net wider it is going to mean a bigger and bigger tax take from the people.

We think that there is reasonable growth there. If we continue to increase the taxation on Queenslanders one way or another, whether it is the new pub tax to pay for Lang Park or whether it is widening the tax base, it will mean that money is shifting from the pockets of Queenslanders, who should have the discretion to choose how they invest that money to grow their business, employ more people and so forth, into the pockets of the government. Depending on how it is used, that money would be of lesser value in that situation than if it were in the pockets of individual Queenslanders. Those are the figures on the stamp duties that have been paid into the state as part of the operating revenue in the past.

I mentioned that we are concerned about the broadening of the tax base. I also mentioned the concern that we have always had and that we have always expressed about stamp duty being charged on GST inclusive amounts. We note that that process is going to continue under this bill. So instead of charging stamp duty fairly and squarely on a product, the government is going to continue to charge its stamp duty on the product plus GST, bringing windfall profits and increases to the government.

One of the areas that is a good example of that and about which we have spoken in this parliament before is insurance. It is a tax on a tax. The government is charging stamp duty on the GST as well as the insurance itself. I can also point to WorkCover premiums increasing from five per cent to 5.5 per cent. Employers contributed more than $30 million in WorkCover related stamp duty in the last financial year. An increase in the stamp duty of 0.5 per cent amounts to a very considerable increase in costs for the businesses of Queensland.

Another example of where the tax on tax policy has increased the cost of doing business in Queensland is leases. Leases were out of the scope of the wholesale sales tax regime. They are now subject to GST. By electing to charge stamp duty on the GST inclusive amount of a commercial lease, the government has significantly increased the cost to business. That means that business has less available funds to spend on new machinery, new equipment, employing new people and growing their business. If there is one thing that we believe this government should do, it is that they should impose stamp duty on the product, not on the product plus GST.

Earlier I referred to execution of instruments and the subsequent problems in relation to leases. At the moment, stamp duty is levied on written leases. Under the changes proposed in this bill, stamp duty will be levied on written or oral leases. This change in policy will mean that holding overs will be subject to stamp duty. Leases between related parties which are not usually written could also be caught in the system. One can only imagine the process of trying to find out exactly what transactions are liable and the policing of this system that will need to be in place in order to get all these particular extensions through the broadening of the net.

Imposing duty on unwritten leases will result in increased administration costs for lessees, especially where the lease is short term or even for a few weeks. The duty payable on such leases would be minimal compared to the administration costs. In relation to hiring arrangements, hire duty provisions under this bill relate to the current rental business, hiring agreement and instalment purchase provisions. New South Wales, ACT, Victoria and Tasmania all provide exemptions for wet hires and transactions between related parties. However, again in Queensland we see a widening of the base. I have given the House some examples as to where problems will occur for businesses in this state when this legislation comes into effect and, as a result, the net is broadened.

There are a couple of aspects to this legislation that we agree with. We agree with the concepts of modernising and harmonising the current legislation. However, when it comes to the principle of extending the financial base, we just cannot agree with that aspect. Any party such as ours that stands for minimum taxation of people and businesses which allow people greater scope to make decisions about their own money and any party that wants minimum taxation so that exports and businesses can grow and more people can be employed cannot support a bill that has as its fundamental principle the expansion of the tax base and which catches those transactions that are currently not subject to stamp duty. It is a widening of the tax base, but that has been shrouded and covered up in the processes of formulating this massive bill. This legislation modernises the act and uses the right language so people can understand it, but we will vote against this legislation because the overriding principle of expanding the tax base exists within it.

I turn now to a couple of other points. In relation to curtilage, previously rural properties were entitled to a half-acre concession. Under this bill, that concession will be extended to larger areas, and that will assist rural communities. The conditions in this regard are that there will still be a $250,000 limit on the valuation of the property and the land has to be residential. There will also be a system of self-assessment of liability under this legislation—that is, a percentage in the insurance industry based on a percentage. There are 10 different types of stamp duties applied—that is, conveyancing; land rich duty; corporate trustee; lease duty; hire of goods duty; credit business; credit card; mortgage duty; insurance duties relating to general, life and work cover; and motor vehicle duties. We agree with the aspects of

the bill relating to simplifying the current legislation—creating a consistent framework and making it easier to operate. We agree that the Stamp Act 1894 requires modernisation and needs to be brought in line with other states in order to address new and modern issues. However, what is lacking in this bill is that there has been no delineation or fence put around those items which were previously not subjected to stamp duty. Instead, the fence has been taken away and the legislation will now be expanded to many other items and arrangements.

This legislation is concerning to those of us on this side of the chamber for another couple of reasons. Last financial year this government had an $820 million operating loss. A portion of that was due to the HIH collapse and bringing forward approximately five years worth of liability that may accrue depending upon what happens with litigation in relation to HIH and the government's eventual exposure. Despite that, there was an $820 million operating loss last financial year. As I said, that operating loss was partly because of HIH and the Thuringowa water supply. There were other issues, too, such as the timing of payments pertaining to employer superannuation contributions, increased costs associated with enterprise bargaining, employees' entitlements and wages, and agreements in growth related to new and enhanced services. There were many factors, such as a number of items not being budgeted for, overspending in some areas, inaccurate estimates of the government's income and nothing put aside for such things as the HIH collapse. All of that led to an $820 million operating loss last financial year, and that is of concern to us.

This situation can be explained when one looks at all the money the government is throwing around, the cost overruns that have been occurring, the way in which the government has to find money any way it can to address financial problems it is experiencing within some departments, and cost overruns on particular capital works projects. We know about the doubling of costs on the footbridge from roughly $12 million to $23.5 million. My colleague the shadow minister for transport has identified a number of cost overruns in transport infrastructure.

Mr Mackenroth: He has not.

Mr HORAN: He identified them this morning.

Mr Mackenroth: He made them up.

Mr HORAN: The minister was not here this morning, but the shadow minister identified a few more. Because of these things, the government is looking at all possible ways to raise extra money.

The government will have substantial extra funds flowing to it in this financial year and ensuing financial years due to the GST, which all comes back to the states. Those funds will provide a real and substantial bonus to the state. With a substantial amount of extra money due to the state because of the GST, there is no need to cast the net even wider with this legislation and continue to impose a heavier and heavier tax burden on the people and businesses of this state. Bit by bit it all adds up. Bit by bit Queensland will move away from being a low-tax state with real incentives to do business, real incentives to employ people, real incentives to grow businesses and real incentives to put in place new plant and equipment which then means that businesses are in a position to earn more, export more and employ more people. Bit by bit, that is being chipped away.

At times we have to get back to some of the fundamentals, considering the unemployment levels in Queensland and the fact that we are coming last in mainland Australia and sometimes last in all of Australia in our monthly unemployment figures. If we do not get right the principles of addressing why it is that businesses—particularly small businesses and small- to medium-sized enterprises—employ people, then we will never get unemployment levels in Queensland down to what they should be and get our figures above average instead of being last and below average. The greatest opportunity and the greatest potential to get our unemployment figures down is to enable the thousands and thousands of small businesses in Queensland to employ more people. There would hardly be a business in this state that would not want to employ additional staff; it is just that the myriad costs are prohibitive.

One of the things that we have been talking about here today is the stamp duties being paid. Whether it is the cost of superannuation, the cost of licensing, the cost of WorkCover or something like that, any small business operator will admit that they always have their hand in their pocket or are reaching for their chequebook to pay for those costs. That reduces their ability to employ that extra person—maybe a young person, a trainee, an apprentice or an older person who could work another three or four days in their business to reduce the workload on the operators of that business.

As we impose a bit more here and a bit more there, and a little more duty on a product plus GST, and as we increase the cost of WorkCover and impose another form of tax here and there, it might not seem a lot but it adds up and it makes a difference. It saps the morale and the confidence of businesses, and they start to think, 'How do we run this operation so that we can reduce our costs and still provide a reasonable return for the long hours that we put in, the risk we have taken in borrowing money and the responsibility of running this particular enterprise or business in a highly responsible and quality way?'

We have a major and complex bill before the House—a bill which, without doubt, will expand the tax base of stamp duties in Queensland, a bill that breaks the government's promise of no new taxes, and a bill that certainly is at extreme odds with our principles that we do not want increased taxes, we do not want new taxes, and we do not want the tax base and those particular items that come into the tax net to be increased and added to so that there is a new form of taxation or an increased avenue of taxation. We believe fundamentally that this principle of broadening the tax net and the other ways in which the government is endeavouring to bring in funds to address its financial needs or its financial shortcomings, or its overspending, or its waste, is not good for Queensland. So there is no way that we could possibly vote for this legislation in the form in which it has been presented to the House.

I have concentrated on this issue because I believe that this is a very important principle. Members of parliament come in here and talk about how we can gradually get this state into a better position and how we can make a positive contribution to it. However, it is no good saying, 'We will have this unemployment plan whereby we will put on some more here and there.' That might be well and good, and it might result in extra apprentices being employed in Q-Build—and I would support that—but fundamentally, in a big part of the state where we can get the most improvement and where we can have the highest number of jobs, if we are continually squeezing and pressuring businesses, thereby reducing their ability to employ extra people or spend money on new equipment, then we are going about things the wrong way. Although this bill addresses the issue of modernising the legislation, it has the fundamental flaw of extending, broadening, widening and increasing the taxation base.

I want to mention again our very real concern that bodies that have been asked to comment on the drafts of this bill have been subjected to a confidentiality clause. I thought we were in the new era of open and accountable government. We have had some vicious debates in this parliament this week about the secret state and how, hopefully, we can move forward to a new and modern society with a good freedom of information system in which access to FOI is not based on how much money people have in their pockets. We have talked about other ways in which the censorship, the clamping down and the subtle and not so subtle moves of this government to clamp down on information are making this state the secret state. I spoke today at a media conference about the fear of staff within the Health Department—imposed upon them under the code of conduct 2000 that was introduced by Queensland Health—and the way they have been threatened not to speak or make complaints about major shortcomings that may be affecting their patients and the people they care for.

Other members on this side of the House have spoken about letters being written to them telling them to go through the minister's office; that they cannot see the local people in the local departments in their own electorates—which is a fundamental right. They will not be stopping any of us on this side of the House from doing that. We have the right to go to every government department in our electorates, and we have the right to fix things locally, which most of us do all the time. We ring the people we know and tell them that there is a particular issue in our electorates; our own local people are able to fix it, and we can deal with our own people. We will not be stood over or jackbooted by this Labor government as it moves to this secret state mentality.

Here is just another example that has cropped up in relation to the confidentiality clauses that have been imposed. Wouldn't it have been great if these various organisations had been able to speak to people on both sides of the House about their particular concerns so that we could have had informed debate? Maybe we could have made some changes to the drafts. Or maybe we could have come into this House knowing full well that the opposition would be totally opposed to an expansion of the tax base. There could have been a bit of media coverage of it, because it would have been quite clear what was happening. But instead, this has been brought in under the cloak of change and modernisation.

In summary, it is very important to us that a large percentage of our services in this state depend upon the income derived from stamp duties. As I outlined earlier, stamp duties have been increasing year by year by year. There has been a healthy and strong increase in stamp duties contributing to the revenue income of Queensland. On top of that, we are now getting the bonus of the GST funds that come to Queensland. Yet this government is continuing to charge stamp duty based on the tax principle of stamp duty on the product plus GST instead of stamp duty on the product only. Now it is expanding the tax base in this legislation. So for that reason the opposition will be voting against the second reading of the bill. We know that the government has the numbers, but a message needs to be sent out to the people of Queensland that there is a group in the parliament that is prepared to stand up on behalf of businesses—small businesses and family operated businesses—and oppose the tax which is being imposed on all those things that have not been taxed before.

If the government forces this bill through, I think members will find that one by one over the ensuing months and years there will be complaints from people saying 'I have just been charged stamp duty on this. That has never happened before'. People will be coming into our electorate offices and that is what members will be hearing. We will be telling them that this is the result of the expansion of the taxation system by this government.

The Premier was happy to race down to Canberra and be the first to sign in support of the GST. He loved it; he thought it was great. However, not happy just to collect the bonus from the GST, the government is now expanding this particular tax net. Members on this side will be voting against this bill. In our opinion, it is not good for Queensland, and associated with its increases will be enormous compliance problems and issues relating to the regulation of who is paying and who is not paying and the auditing and checking under this particular system. We will be voting against this legislation.
