Speech by

Mr W. BAUMANN

MEMBER FOR ALBERT

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PROPERTY AGENTS AND MOTOR DEALERS BILL

Mr BAUMANN (Albert—NPA) (9.57 p.m.): In speaking to the Property Agents and Motor Dealers Bill, which the coalition is not supporting because of certain aspects of the proposed legislation, one instance being the abolition of the requirement for applicants for real estate licences to advertise—and numerous others that have been outlined by various members on this side of the House—I want chiefly to refer to circumstances that affect two constituents of mine. Their case is directly relevant to the Bill, which introduces provisions to regulate for the first time those engaged in the residential property development and marketing industry to overcome unacceptable marketing practices involving the targeting of consumers to sell investment residential property, and which in particular abolishes the Auctioneers and Agents Committee, which, on all the evidence before me in this particular case, has been a very flawed body indeed.

It will take a little time to set out the circumstances, but I believe the House should hear at first hand what happened to two ordinary Queenslanders who had to seek an early exit from a two-year guaranteed rental arrangement on an investment property and found they had bought it at an inflated value. They were the victims of a two-tier property marketing deal, the sort of manipulation that must be stamped out in Queensland.

Trevor and Amanda Brown, who live at Pimpama in my electorate, have presented arguments to me which strongly indicate that they are the victims of a sharply reduced valuation on a unit they bought at Clearwood, a development of 46 townhouses at 15 Simpsons Road, Tallebudgera. On 3 November 1997 they entered into a contract to buy unit 16 at the complex at a purchase price of $169,500. The vendors were Hatlowe No. 2 Pty Ltd as owners and Forrester Kurts Property Developments as developers.

The Browns entered into this arrangement having been recruited as potential buyers through a telemarketing process run by Cornerstone Pty Ltd, an investment agent. The arrangement was one in which Forrester Kurts Property Developments guaranteed rental of the investment property at of the order of $170 a week for two years. Within that two-year period the Browns fell into financial difficulties and as a result attempted to sell the property. On 3 March 1999, in preparation for sale, the property was valued at $120,000, whereas at purchase they had been provided with a valuation figure of $157,000.

The matter was referred to the Auctioneers and Agents Fidelity Committee on 19 April 1999, claiming $73,527.91 against the auctioneers and agents guarantee fund—the difference between the valuation and the total amount the Browns owed to their financiers.

In October 1999 a claim inquiry report was lodged with the secretary of the Auctioneers and Agents Committee, prepared by senior investigations officer Paul Entriken, then of the Southport office. This report stated that there was no evidence that the investment agents concerned, Cornerstone Pty Ltd, or the licensed real estate agent, Torry Saunderson, were liable on account of any actions they had taken. I would certainly hope that the Bill we are now debating will end the abuse of the system of which the case I mention is but one example.

Ms Spence interjected.

Mr BAUMANN: There are numerous other cases.

Ms Spence interjected.

Mr BAUMANN: Yes, we are. Certain aspects of the Bill I made note of and I will provide some more examples as we go along. I am sure that the Minister is listening intently and I do appreciate that.

It is, of course, up to the purchasers of any service or product to satisfy themselves prior to purchase that what they are buying is worth what they are being asked to pay. Buyer beware is a firm rule which the prudent will always apply. That said, however, there is a great deal more than indicative or circumstantial evidence available to suggest that in Queensland's property market, particularly on the Gold Coast, elements that constitute sharp practice are readily identifiable but not always clear to prospective purchasers. The evidence is that the practice of two-tier marketing—basically a public price and a hidden price for the property being marketed with a lot of hype and very little substance—is a feature of the buy-and-rent-back market. I suggest that some of those behind such schemes bank on purchasers not seeking to dispose of their properties within the two-year guaranteed rental period and therefore not thereafter being in a position to make claims that their property's value was unlawfully misrepresented at the time they signed the contract.

In the case of Trevor and Amanda Brown, their need to sell before the end of the two-year guaranteed rental period produced a negative valuation on their investment about which they are understandably aggrieved. I am not in a position to suggest there is positive proof of malfeasance by any party to the deal in which the Browns engaged but, at the very least, I believe the circumstances in which the Browns found themselves require the fullest assessment by Crown Law. It would be beneficial to the aggrieved parties in this unfortunate set of circumstances if the Attorney-General, as chief law officer, could bring about such an inquiry. I would be happy to provide the Attorney-General with the evidence in my possession to assist him in deciding that this is the proper course of action.

The Bill before us will, I hope, put an end to the sharp practices and market manipulation, or at least make these things harder to get away with. Up to now, the whole process of what might be termed push marketing of expensive products— predominantly residential property—is in urgent need of investigation and then legislation to set reasonable requirements as to what sellers must disclose about the true value of those products. It is not good enough simply to say that any prospective purchaser should obtain the protection of an independent valuation in circumstances where a package deal is offered, including access to loan funds through a particular bank—in this case, the Bank of Melbourne. We owe it to Queenslanders to offer genuine protection under the law against hidden profit merchants who evidently gamble on no-one discovering their fast and loose ways with the truth until it is too late to obtain redress. I seek the Minister's assurance that this legislation promises to entrench genuine protection.

In the particular instance involving my constituents, it is very clear that consideration of their case has been deficient; it has not extended to questioning all of those who might have been engaged in the process of marketing, promoting and selling the Tallebudgera property to them. For whatever reason, the Browns discovered a 38% drop in the market price of their property over a period of less than two years. This frankly defies belief—unless it was similarly overvalued in the first place. That, at the very least, should have rung alarm bells.

While the Auctioneers and Agents Committee is to be replaced by the new Property Agents and Motor Dealers Tribunal, I hope that this shift indicates a determination by the Government to improve its own performance as well as that of the real estate and motor vehicle sales industries. I hope that the Government now understands that it is itself a cause of long identified problems. It is to be hoped that by now those opposite have worked out that there is actually no future in plundering the public purse. Sooner or later people will wake up to the fact that Dracula is in charge of the blood bank and take electoral action to fix the problem.

No doubt there are, as a result, administrative and financial reasons why the Auctioneers and Agents Fund as it has been constituted up to now would therefore seek to reduce to almost invisible levels the amount of money it pays out on claims against it. No one could object to the Government placing emphasis on public housing—and we all know that this is where quite a considerable amount of the money from this particular fund goes—but this should not be achieved, even at the margin, by raiding moneys which exist to compensate people in the private housing market for financial injury meant to be covered by the fund.

The Auctioneers and Agents Act 1971, which is to be repealed by this legislation, has not, it is generally agreed, been able to accommodate evolving business practices and community expectations for appropriate safeguards in the marketplace. Marketeering is one such area in which operators have been causing significant consumer detriment. It is time for a clean-out. In that regard, it is pleasing to see that clause 574 relating to false representations about property prohibits a person from making false or misleading representations about the property and places on the person making the representation the onus of proving that the representation was made on reasonable grounds. In other

words, it should encourage greater responsibility on the part of those who are in business to turn a profit from the sale of real estate.

As I have previously mentioned, it does seem strange in these circumstances that the Government proposes to drop the requirement for prospective dealers in real estate to advertise their proposed entry into the industry so that anyone who might have grounds to object to a person is given the opportunity to do so. Perhaps the Minister has reasons and will expand on them when she sums up. It seems to me that this might be yet another case of this Labor Party Government, the party of the back room deal, deciding what is best for the people and then telling them what that decision is. I note for the Government's benefit that the political times have changed. People are no longer prepared to put up with being told by squadrons of experts paid by the Government what they should do and when they should do it. We need responsible legislation on these matters delivered in a timely fashion.