



Speech by

Mr SANTO SANTORO

MEMBER FOR CLAYFIELD

Hansard 14 November 2000

PROPERTY AGENTS AND MOTOR DEALERS BILL

Mr SANTORO (Clayfield—LP) (10.27 p.m.): It gives me pleasure to be able to speak to this Bill and to support in particular the comments made by the shadow Minister, the honourable member for Indooroopilly.

It is my respectful submission that, tonight, we are in this place debating this Bill because the Government cannot manage its legislative program. It is running late and, as a consequence, so are we. I am sure that no member of Parliament objects in any way to working into the evening to help the Government achieve its chief objectives, in particular, running the State.

However, that is where there is a problem with this Bill. It is not a good Bill. Some of the people to whom I have spoken about it—and I have spoken to a lot of people, particularly constituents of mine—think that it is a bad Bill, and I agree with them. I am all for steady progress and sensible reform. We on this side of the House do not believe in Government by diktat or administration by stealth. We believe in open Government and in real community interest and participation in the process of debate.

This morning during question time we were treated to yet another hysterical performance by the Premier. With respect, he answered nothing. He announced another of his shambolic jobs, jobs, jobs coups for Queensland—another project.

Ms Spence: This is very relevant to the legislation, isn't it?

Mr SANTORO: I am coming to the relevance. The Premier announced another project that started long ago, which was brought to the point where it could flower by the coalition in Government. The Premier said nothing that we had not heard before—nothing that did not sound like a broken record. This Bill—and this is

where it is relevant—seems to owe something of its substance to the same provenance.

When this Bill was introduced, I sought comment from 200 real estate agents and motor dealers enrolled in my electorate of Clayfield. I wrote to them and I let them know the details of the Bill. I even circulated the Minister's second-reading speech. I received many queries and a lot of feedback. Unfortunately, I have to say that not much of it was very positive. I am sure this will come as a total surprise to the Minister and members opposite. I listened to the contribution of the honourable member for Cairns, who said that the real estate industry supported the legislation. She was obviously speaking to real estate agents with quite a different mentality and view on this Bill from the ones—

Ms Spence: Did you consult any consumers?

Mr SANTORO: Yes, I did consult consumers. In the overall course of our daily lives we mix constantly with consumers—constituents, family and friends. Yes, I did consult with a lot of those people who have bought and sold houses and motor vehicles. They agreed that some of the provisions in this Bill are to the advantage of the consumer. If that is what the Minister wanted to hear me say, I have said it. Was she trying to make a point when she asked me that question? Was there a point that she was trying to make? We are capable of being positive and giving credit where it is due. The shadow Minister was not totally negative about this piece of legislation, and nor were other members on this side of the House.

The Minister can pretend that suddenly she is not interested, but there are some big problems with this Bill. I am here in this place to outline them on behalf of the people who did take the time to speak to me. Tonight I will put forward

their views and those of the peak industry bodies, the Real Estate Institute of Queensland and the Motor Trades Association of Queensland, with which I also consulted and whose views are supported by many of the rank-and-file operators within my electorate. I need to report to the House that when I did speak to a lot of my practising constituents on these areas of policy they invariably said, "The interests of this industry have been very well represented in consultations and negotiations with the Government by our peak bodies." I give credit to the REIQ and its executive director, Don Mackenzie, and his other officers, and to Tony Selms, the Executive Director of the Motor Trades Association. It is not often that people in representative positions, including some of us in this place, get positive feedback. I put on record that the constituents in my electorate basically referred me to the submissions of those peak bodies when I asked them for their views in relation to the matters we are debating tonight. I place on record my thanks for their interest and time and for the advice that those peak bodies and their members have provided to me.

Firstly, I turn to the concerns of the motor industry and the MTAQ which, neither I nor my friends on this side of the House were surprised to learn, proposes improvements to a number of areas in the Bill concerning the public and also the industry itself. However, before I join my colleagues in placing on record these chief concerns, there is one little oddity that I would bring to the attention of the House and the Minister. Perhaps in her summing-up remarks she might explain why such an oddity is allowed to exist.

I refer to the issue of odometers. The oddity is that this Bill is not concerned with odometers. The issue of replacing an odometer or resetting the reading—speedo tampering, when it is done with fraud in mind—does not appear to be addressed. Motor dealers and the MTAQ believe it is imperative that clear guidelines be established. Perhaps in this we have clear proof at last that the Government is interested in winding back the clock or in disposing of rusty utes, shall we say.

I now turn to some of the specific concerns of motor dealers and particularly the MTAQ. Their concerns basically lay in four areas—business addresses, brokers' record keeping, acting as a motor dealer, and property agents and the motor dealer tribunal. I will deal with those in the order in which their concerns were presented to me. For the record, they are the four major areas of concern.

One of the major concerns relates to managers' licences. What motor dealers and the MTAQ suggest is that there should be a very clear definition of the responsibilities of the principal licensee and the employed licensed motor dealer. They contend that it is not

acceptable that an employee acting under the direction of a principal licensee should be bound by the same level of responsibility as the principal. They basically believe that having a manager's licence as well as a dealer's licence with clearly defined responsibility is a far more equitable situation under this legislation than what is being proposed.

There are also concerns relating to guarantee of title. Motor dealers and auctioneers are often selling vehicles on behalf of owners. This Bill wants them to provide a guarantee of title on a vehicle in which they do not have any interest when it comes to title. They are still of the belief that they are agents and they are not owners and that it is the owner who should provide the guarantee of title, and therefore the legislation should put the onus on the owner rather than on the person doing the selling or the auctioning. That is something that is of real concern to the motor industry. If it is not addressed in the amendments tonight, the Minister will have to come back eventually and amend this section of the legislation as well as many other sections that have been mentioned by members on this side of the House.

Of particular interest to me is the definition of "business day". Having been the Minister previously responsible for the administration of trading hours in this State, I can see why the concerns of the motor dealers are being expressed to members such as me. The proposed definition of a "business day" may need to be altered eventually to recognise the approved trading on certain public holidays and, therefore, would be better described as per the "trading hours non-exempt shop selling motor vehicles" as prescribed by the Queensland Industrial Relations Commission's orders regulating trading hours. Again, regulations and legislation dealing with trading hours have a major impact on lifestyle and on the time that motor dealers and real estate agents are able to spend with families and doing things other than work. Again, I would strongly recommend that the Minister have a close look at the concerns that have been expressed in this area.

Non-refundable deposits are also of concern to motor agents, and not because they want to have a big deposit in the hope that people will forfeit their deposit once they decide not to buy because of whatever circumstances. Certainly, the motor dealers to whom I spoke believe that the level and the amount of deposit prescribed in legislation will have very little influence on the retail customer. It is the belief of motor dealers that non-refundable deposits need to be far more substantial than what has been suggested and stipulated in this legislation. Dealers fear that they will be faced with stock being contracted out of the market by a prospective purchaser on high-volume sales days, such as Saturdays, or on other days when trading will be at a higher level,

and the purchaser will withdraw or may be very tempted to withdraw on Monday, which is a low-trading day.

Earlier I spoke briefly about the rights of consumers, and only as a result of an interjection by the Minister. Certainly, there is something here that is of concern to consumers—people who buy vehicles from motor dealers—and that is the issue of statutory warranties and mediation. Except for a reference to the Small Claims Tribunal in section 324, this piece of legislation appears to be silent on the issue of dispute resolution. Motor dealers believe that both the consumer and the dealer will be disadvantaged by the lack of an effective dispute resolution process. They are suggesting to the Minister that again this is another area that needs to be looked at.

There is also a section which defines acting as a motor dealer. In addition to the penalties prescribed for an industry or corporation convicted of acting as a motor dealer without a licence, we believe the following should apply. Before I outline what the MTAQ wants, I should say that it should be commended for wanting penalties as strong as this included in the legislation. Again, motor dealers, like politicians, real estate agents and other people, are much maligned in the community. But I think the vast majority take their responsibilities very, very seriously. The MTAQ believes that the confiscation of assets derived from proceeds from the offence should be very much a component of a Bill such as this. Those assets could include any interest in real or personal property, inclusive of motor vehicles, derived by that person or corporation as proceeds from the commission of an offence. Again, I go on record as commending the MTAQ for taking such a strong moral position in relation to ill-gotten gains by unscrupulous people who masquerade as something that they are not.

A theme that cuts right across this Bill is the representation on the Property Agents and Motor Dealers Tribunal. The concerns of motor dealers are shared by the REIQ. Basically the Bill specifically excludes current licensed motor dealers and real estate agents from being appointed to the tribunal on the grounds of potential conflict of interest. There are two points that I would like to make on behalf of those to whom I have spoken. First of all, under the Government's proposals there is a lot of current specialist expertise that will be excluded from being on the tribunal.

Mr Swarten: You are condemning the Building Services Tribunal then, the tribunal we have for the builders.

Mr SANTORO: I could not quite hear the Minister.

Mr Swarten: What you're condemning now is the tribunal we have for builders.

Mr SANTORO: No.

Mr Swarten: Yes, you are. There are no experts on that, according to you.

Mr SANTORO: I do not know that I am condemning that tribunal. I am stating a general principle here, and it is my view.

Mr Swarten: That is what you are saying. I don't mind interjecting on you because you don't know what you're talking about.

Mr SANTORO: With respect to the Minister, I think that, as the honourable member for Indooroopilly and others before me have said, at sometime in the future this legislation will again have to be amended by the Government—that is provided the Government gets itself elected in six months' time, which at the moment even he would have to admit is highly unlikely. He should listen to what I am saying. I am representing views for which he obviously has absolutely no respect. Again, he is demonstrating an arrogance and an unwillingness to listen to the views of people. I think it is one of the major reasons why his Government is in so much trouble. The sooner they come to realise that, the better chance they have of getting themselves out of the mud that they are in. Unfortunately, because he cannot help himself and members like him cannot help themselves, they are in the trouble they are in, and I say that with every due respect. The Minister will have her time to reply. People will be reading very, very carefully what she says. If they disagree, they will take out their particular—

Mr Swarten interjected.

Mr SANTORO: I was going to be much briefer than this, but you have again interjected.

Mr DEPUTY SPEAKER (Mr Reeves): Order! I remind the member for Clayfield to speak through the Chair.

Mr SANTORO: I return to the concerns of the REIQ. It strongly supports the Government's desire to create legislation to regulate for the protection of consumers and to promote freedom of enterprise in the marketplace. That clearly is one of that organisation's stated objectives. We on this side of the House also support them. The issue is whether the Bill actually delivers what its proponents say that it will. The REIQ also has specific concerns which I know have been directly delivered to the Premier and to other members on the Government benches.

The member for Indooroopilly has already raised the question of the fact that, under this legislation, citizens and the industry will no longer be able to object to the granting of a licence. That is another consumer right which has been eroded by this piece of legislation. I do not hear the Minister interjecting now on behalf of consumers, but that again is something that perhaps the real Minister may be able to answer—why the ordinary person out there cannot object to the granting of a licence. The REIQ is also concerned that decisions on claims below \$5,000 are subject to merit review only by the tribunals and that parties

to a claim against the fund before the tribunal lose rights of appeal except on matters of law. Again, the Minister may care to explain why that is the case.

There are many other matters of concern to the REIQ. It is concerned about the chief executive's powers to delegate to any public servant of any rank. Again, it fears that there will be a loss of expertise and responsibility in terms of the way that those delegations will occur. It also is concerned that competency standards and other criteria for licensing purposes should be contained in the principal legislation rather than the regulations. It thinks that those competency standards and criteria are important enough to be included in legislation. As I said, citizens and the industry in general can no longer object to the granting of a licence. It regards that as a major retrograde step. The functions and the powers of the tribunal are other concerns, and I have elaborated already on that, with the assistance of the Honourable Minister for Housing. I stand by the concerns that I have expressed on behalf of both the motor dealers and the real estate agents within this State.

Mr Swarten: None in my electorate.

Mr SANTORO: The Minister should go out and consult with them just as I did.

Mr Swarten: I have.

Mr SANTORO: I would be surprised. I might circulate this speech and his interjections and we will see what they have to say about it after that.

The REIQ also believes that it should be made certain that proper information sessions and cooling-off periods apply only to sales of residential property for investment purposes. It also is of the view that a review is required to commence within two years of the enactment of the legislation. But there is no limit as to when the review must be completed. Again, for the sake of certainty within the industry, it believes that those particular points should be covered by legislation.

Despite bleatings by the members opposite, particularly the honourable member for Rockhampton and Minister for Housing, I remain utterly unconvinced that this is good legislation we are considering. I believe that it requires substantial amendment before it will pass muster, and I look forward to the Minister advising the House that this action will be taken. If she fails to give that reassurance, I believe that the people whose views I have been representing will view this Bill with not too much enthusiasm. That is the reason why we will be opposing it.

Time expired.