



Speech by

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MEMBER FOR CAIRNS

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PROPERTY AGENTS AND MOTOR DEALERS AMENDMENT BILL

Ms BOYLE (Cairns—ALP) (2.44 p.m.): I am pleased to speak in support of the Property Agents and Motor Dealers Amendment Bill. I had spoken optimistically about the Property Agents and Motor Dealers Bill, which took effect on 1 July, having taken a particular interest over several years in the issue of marketeering. Unfortunately, it has come to Cairns, but not in as dramatic and as dreadful a fashion as it has on the Gold Coast. Nonetheless, I had taken an interest, along with Bob Norman, who is a property developer in Cairns and the president of the Cairns Chamber of Commerce. We had both been hopeful that the previous bill would address this dreadful issue, which does reflect on real estate agents and causes victimisation of Queenslanders and those from other states—often people who can least afford to be financially victimised. The people involved in this—and many of them are not registered real estate agents—have dollars in their eyes. And if they ever had ethics and integrity, they have long since been left behind in their past. Unfortunately, they have found the loopholes and the ways around the previous bill which make it necessary for us to take these stronger steps in the House today.

Since that bill was introduced, marketeers have altered their operating tactics to avoid the provisions of the legislation. The act has not covered the behaviour of the various people involved, who include not only real estate agents but also property developers, marketing companies, valuers, solicitors, financiers, marketeers, of course, and, from time to time, other professional and lay people. I endorse the remarks of the previous speaker about the expectations of the general public with regard to the legal profession. It is indeed surely a concern to members of the profession that I hope they will take up further so that they do not have amongst their number some—albeit a small proportion—who cause shame and call into question the general regard that the public has for the legal profession.

The penalties in the current act are insufficient. They have not deterred the big operators. The jurisdiction of the Property Agents and Motor Dealers Tribunal and the District Court have been insufficient to appropriately respond to the types of practices being adopted. That brings us, therefore, to the need for this amendment bill. It is important that we restore the people's faith in the real estate and associated professions. It is important that the many good people who are in these fields of endeavour are not smeared by the actions of a few.

In Cairns, we are fortunate indeed to have quite vibrant numbers of people in property development and real estate, most of whom behave with tremendous integrity and have pride in their practice. They have been pleased to work with me and to offer some critique from their own points of view about the previous bill and now this one. But not having been involved in the scurrilous practices, they do not understand the detail or the motivation of those who really have found the loopholes and got around them.

We have, too, in Cairns a community that is nervous as a result of considerable publicity given to those who have been victimised by marketeers, particularly on the Gold Coast. I have no doubt, therefore, that the absence of criticism from real estate agents in Cairns of this bill before the House is because they do indeed recognise the importance of restoring the reputation of the great body of practitioners in their industry.

One of those other groups of people who have been involved in the unsavoury practices are valuers. This is also a matter of some concern. As it happens, and for reasons of a different nature

originally, we have laying on the table of the House the Valuers Registration Amendment Bill 2001. It is indeed timely that we should be assisting the profession of valuers to look more closely at themselves, at their own disciplinary procedures, at the standards that are set and at their requirements for continuing professional development.

In putting the bill together during the consultation period, it was discovered—and I suppose if we think about it we really knew it already—that the community understands little about how valuers are commissioned and the basis upon which they reach their valuations. In fact, the community—and certainly this has been so in terms of marketeering—is often the third-party recipient of valuations while not being involved directly in appointing the valuer in the first place. The community has not understood that valuations are determined for different purposes, with the resulting valuation varying depending on the instructions given. It is indeed a catch-22 situation when those who are paying for the valuations, when those who are dependent upon the valuation to determine a major decision in their lives, do not even know the basis upon which the valuation was carried out. Therefore, this bill is matching legislation, as it should be, in terms of our endeavour to stop these marketeering practices in Queensland in that in a near future sitting we will debate the Valuers Registration Amendment Bill 2001.

Marketeers in Queensland have adopted unconscionable practices. There is no doubt that that has occurred to the detriment of the consumer. There is also no doubt that, because of that, public confidence in investing in the Queensland property market has been shaken. We know that marketeers have charged \$20,000 and more for their marketing expertise and efforts. Clearly, there is no need for that charge to accrue on top of the price of the property being purchased. Unfortunately, under those circumstances many unsuspecting purchasers have been required to pay up to \$800 to the marketeer for a valuation of the property. Yet still they have not received in any form a copy of the valuation.

This amending bill will require the seller to provide the purchaser with a copy of the valuation when the purchaser is required to pay for the property. The new warning statement on all contracts of sale for residential properties, except auction sales, will include a strong recommendation that buyers obtain independent legal advice and an independent valuation of the property. The warning statement will also contain a telephone number for a hotline where buyers can seek information on how to obtain an independent valuation as well as information to assist buyers when instructing valuers. We need to send the message to the broader public, particularly those who might in the near future be drawn into the real estate market, that although they may have in the past not understood the importance of an independent valuation, if they spend the necessary dollars to get an independent valuation, that will save them money in the end, that will lessen their risk of making an unwise purchase that will, ultimately, lead them into debt.

Although the government is acting in relation to valuers, I hope that the valuation profession will take up this issue themselves. I have been concerned about the relative silence over the past 18 months—from the initial consultations, the introduction of the previous bill and through to the development of this bill—from the professions involved. Previously, the Law Society has not spoken out. Only recently the president of the REIQ has discovered that he enjoys making critical comments about the government to the media. He had 18 months in which he could have contributed constructively to the development of ways of shutting down these marketeers. Indeed, it is easy to criticise at the end of the process. I suggest to him—in fact, to all of those in the real estate industry—that he, too, has a responsibility not only to act with probity but also to work with the government in shutting the loopholes as quickly and as firmly as possible.

One of the good, simple things in this amending bill that will benefit purchasers is the five-day cooling-off period for all residential property sales. As I understand from the media, several groups consider that the cooling-off period is unreasonable. But when we consider that we have cooling-off periods for the sale of cars, for fitness club memberships, for introduction agency memberships and for door-to-door sales, it makes sense that we should have a cooling-off period for what is, for most people, the biggest purchase that they will ever make in their lives. The extended cooling-off period will remove industry confusion about a buyer's entitlement to protection and at the same time boost the professional standards of the property industry.

While I am frequently critical of the detail and sometimes obscure language of government publications, I must say that the new PAMD form 29, which will be the covering sheet on contracts and which will warn people about their rights prior to signing their contracts, is really very clear. The word 'warning' appears loud and clear. The form states at the beginning—

Do not sign the attached contract without reading and understanding this warning because you are committing yourself to serious legal obligations.

That is surely very clear language. The form also has the following words in large print and underlined—

Before you (the Buyer) sign get:

INDEPENDENT LEGAL ADVICE and

AN INDEPENDENT VALUATION of the property.

There is further advice on that covering sheet that is to the point. Surely, that will go a long way towards assisting those who become tangled in negotiations when they are buying a property—to warn them to take care in maybe those excited moments when they are thinking positively of signing on the dotted line.

It is important that we play our part in communicating this message. The media too, have, a role to play in the public interest—to make sure that the message is clear. I give some recognition to the *Courier-Mail* and also to the *Cairns Post* for the articles that they have published, particularly in recent months. Unfortunately, not everybody reads the paper every day. So I hope that the electronic media will also take up their role in putting before the public these important lessons to be learned about purchasing properties. The government can go only so far on its own to protect people, as it were, from themselves.

Nonetheless, we are sensitive to the fact that there will be victims. It is important to recognise that this bill contains a compensation mechanism. Purchasers may be able to be compensated by up to a certain amount. At the same time, marketeers will be properly punished for their actions. They will be subject to bans of up to five years from being involved in the sale or marketing of properties. The District Court will be able to impose fines upon those marketeers of up to \$250,000 for each breach of the act.

There is no doubt that, through this bill, we have taken strong action. It is indeed gratifying to hear that members opposite will be joining us in supporting this bill. Therefore, all of us in this parliament can send a strong message not only to Queensland purchasers but also to those in other states that we will make sure that the integrity of the Queensland property market is as high as it should be.
