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Press release - Illusion of protection by law

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PRESS RELEASE BY THE LEADER OF THE OPPOSITION, HON. DON DUNSTAN,
Q.C., M.P., ON SPEECH GIVEN AT THE AUSTRALIAN ASSOCIATION
OF SOCIAL WORKERS, DEPARTMENT OF PUBLIC HEALTH.

Oct. 1968.

Given modern techniques of marketing, selling and high pressure salesmanship, the majority of people in the community are in some degree or other vulnerable to frauds and cheats, and while the law has sought to give them protection in many cases the protection afforded by the law was quite ineffective and illusory. There is a general tendency today to change the basis of the regulation of commercial and sales practice from the old principle of caveat emptor to protection for the purchaser or consumer. I believe that the Sale of Goods legislation should demand of the vendor adequate guarantees as to standard of his goods, or services. I believe that it should be possible for Courts to investigate transactions and to overrule provisions of contracts which allow the vendor to waive all conditions, warranties or representations that have been or may be made to obtain the sale, and what is more to see whether any contract was made in such circumstances as to put the purchaser at a grave disadvantage through his defective understanding or lack of appreciation of what it was he was contracting for.

Today, many citizens in our community put their names to documents and then find that they are bound to many things which place grave burdens on them which they did not appreciate at the time they signed the document. I believe that the whole of our Credit Sales legislation ought to alter, so that there is real protection for purchasers in the case of misfortune or temporary disability. At the moment, when their goods are repossessed because they have been unable to keep up payments for a short period, they are notified that they may go round and protect themselves from further action on the debt owing on their goods by getting somebody to offer a better price for the goods than is specified in the notice given them by the person

repossessing. What hire purchaser already in monetary difficulty about keeping up hire purchase payments is in a position to take time off from work and go without the goods and seek an alternative buyer? The provision, of course, is never availed of, all because it cannot be.

The buyer in the Hire Purchase Agreement then has to face the fact that the goods are sold often to somebody associated with the vendor or a hire purchase company at far less than their market value and the buyer then has a considerable debt still to pay for nothing. I believe that it is necessary for us to protect people for land transactions in South Australia where at the moment, people making the greatest investment of their lives can be led into an extremely difficult situation with heavy burdens on them because they have no independent advice as to the transaction they are undertaking. In South Australia alone of the Australian States, it is not necessary for a purchaser to have independent advice except from a land broker who is often an employee of the land agent who has induced him to enter the contract, if not the agent himself. To bring a case in these circumstances against the land broker for negligence in his professional duty, has, I think only once been done in South Australia successfully, and it is extremely difficult to maintain. People may be led into transactions which take away their life's savings because they don't know what they are doing, and they believe that as they are dealing with licensed land agents, they are naturally fully protected.
