



Speech by

BRUCE DAVIDSON

MEMBER FOR NOOSA

Hansard 30 November 1999

RETIREMENT VILLAGES BILL

Mr DAVIDSON (Noosa—LP) (4.49 p.m.): There are 300 plus retirement villages spread throughout the length of Queensland, but the majority are situated here in the south-east corner. Approximately 22,000 aged and ageing people are resident in these villages, all of whom reside in these complexes under residence contracts of one form or another. I notice that the Minister is not in the Chamber yet.

Today there are approximately 22,000 people as well as their children and relatives who know that they have been betrayed by the member for Mount Gravatt, the Minister for Fair Trading, the Honourable Judy Spence MLA. So angry and distraught are they with the contents of the Retirement Villages Bill 1999 that this Minister tabled in the House in July this year that, when opening a discussion on this Bill, the question most often raised with me by these aged people is the legitimacy of the Minister's intentions with the Bill. For all of these 22,000 people, our last sitting was, for them, equivalent to their last supper, so badly have they been betrayed by this Minister with all of her empty promises and rhetoric, not the least of which was the following—and I quote from the Courier-Mail of Tuesday, 20 July 1999—

"Through years of involvement with retirement village residents, I have learned that many people opt for retirement village living because of the lifestyle it offers.

I would like to take this opportunity to inform you about the long overdue and significant changes to legislation that will improve your living standards and give you greater peace of mind."

Thank the good Lord Minister Spence did not promise them a life-destroying calamity, although she might as well have done. On which planet do the Minister and her advisers reside? It certainly cannot be planet Earth, and it certainly is not south-east Queensland. The BMW motor company has just released a terrorist-proof vehicle, complete with armoured glass and anti-personnel equipment. I suggest that the Minister places an order for one of these limousines immediately if it is her intention to ever again visit a retirement village.

It is doubtful that any piece of legislation was ever brought into this House with greater expectation by those it would affect that its content would resolve the faults and criticisms of the Act it was meant to replace than this diatribe of convoluted theory and compromise that has been described as "a handbook for future developers and operators of retirement villages" by exasperated, confused, angry and desperate village residents who honestly believed that the Minister knew what they needed and wanted and was going to do something about that situation. It is not as though the Minister does not have an affinity with retirement villages and their residents. As far back as November 1991, Hansard records this waffle by the Minister during the debate on the Land Tax Legislation Bill—

"Retirement villages are not enclaves for the wealthy.

...

People go to live in those villages because they do not have the burden of home and garden maintenance and they can share their leisure with people of the same age. They then live on a pension or superannuation and thus have a fixed income. In doing so, because they

delay the move to hospitals or old peoples' homes for many years, they are not a burden on the community."

Indeed, that is a statement of great truth, but one that is now sadly ignored. In a ministerial statement on 17 August last year, the Minister said—

"The residents of Queensland's retirement villages send me messages every week when I receive scores of letters imploring me to review the legislation."

In that early flush of occupying ministerial leather, the Minister went on to say—

"Our predecessors have left the issues that they thought were intractable to a Government that can talk, listen to and understand the fears and concerns of the retirement village industry."

The Minister said further—

"While Queensland retirement village residents and operators once felt deserted and unacknowledged, our Government has made them a central component of legislative change. Our program of legislative reforms will not just be a bandaid approach to retirement villages issues. Under this Labor Government, both residents and operators will be secure in the knowledge that the legislative underpinnings of their retirement villages are sound."

On 3 March this year, in another ministerial statement on retirement villages, the Minister stated—

"The working group has succeeded in constructing for Queensland retirement villages a framework for a fair and prosperous future."

That is rousing stuff—enough to raise the expectations of those 22,000 people living in retirement villages throughout Queensland that here at last was a Joan of Arc to the aged and ageing, who most certainly did have problems with the current Act; here was a saviour who would put the wrongs to right.

On 5 May this year, when commenting on a recent trip to villages at Buderim in answer to a question asked by the member for Nicklin, Ms Spence said among other things—

"There seems to be a lot wrong with the current retirement village legislation. The former Minister, the member for Indooroopilly, on two occasions tried but failed to introduce new legislation. As the Parliament would be aware, a working party is currently working on this. I am pleased to inform the member for Nicklin and others that draft legislation will be going out for public consultation this week and new legislation will be introduced in July.

It is important that Queenslanders are involved in full consultation and have full input into this legislation before it hits Parliament in July. I look forward to members' observations, as I do those concerned residents throughout Queensland who have written to me about this subject last year."

Is it any wonder that village residents had great expectations that all of their concerns and grievances would be considered and that they would have a chance to have direct input into legislation being formulated by the Government and this Minister?

After all this and after all the consultation between the working party of operators and the representatives of the residents, such as the Association of Residents of Queensland Retirement Villages (Inc.), one might have thought that the Minister had enough evidence and fact to put together all-encompassing legislation to suit the needs of all parties to this legislation and the industry. Regrettably, this was not so, and the hopes and aspirations of residents were again dashed on the barbs of the too-hard basket.

This was particularly disappointing to the many residents who had gone to the trouble of submitting written responses to the draft legislation, as requested by the Minister, and who are acknowledged on pages 3, 4 and 5 of the Explanatory Notes. Even at the stage of the draft legislation, many residents who had carried the fight for fairer legislation for years could see the writing on the wall in terms of the expectations and promises from the Minister.

I have a letter from a long-time village resident and member of the ARQRV which spells out the despair over the draft legislation better than I can express it to this House. The letter states—

"Dear Minister,

As you know, I am the vice-president of the ARQRV, and you may be aware that I shall possibly succeed Cliff Grimley later this year (as president).

You may also be aware that I am a member of that little group, Watchdog RVL. Because of my involvement with the ARQRV for the best part of a year now and because of that association's participation, albeit scandalously outnumbered in the review process, I have refrained from much personal contribution, but I am now constrained to write in a personal capacity, though I cannot avoid mention of the ARQRV in a number of contexts.

Thank you for sending me a copy of the latest draft Bill. I have sent my response as requested to the legal services unit. I attach a copy of that response, which I hope you will on this occasion take the trouble to read and not just pass on to your departmental advisers. However indifferent they may be to the concerns of residents, which is apparent from the previous Bills with the drafting of which they have been involved, you, as Minister, must take responsibility for what they produce. But it is not simply a question of detail and drafting. It is a question of philosophy."

That is a most pertinent statement in the realms of the proposed legislation, so let me repeat it: "It is a question of philosophy." The letter goes on—

"Despite earlier drafts over the past two and a half years, this draft shows, still, an abysmal ignorance of life in a retirement village; ignorance of residents' modest requirements and expectations; ignorance of the frailty, physically and intellectually, that advancing years brings; ignorance of their susceptibility to autocratic and intimidating management; ignorance of the reluctance to speak up or ask questions for fear of reprisals; even to fear of being evicted for daring to do so.

These, Minister, are not figments of my imagination. They are sentiments which have been expressed to me by many residents in many villages so often with the plea, 'Don't mention my name; don't take it any further, don't mention this village'. Some, but only some, of their fears may seem a little extreme, but they have been engendered by the attitudes and threats and bluffs of managers and operators.

The Act is probably not the place to recite all the rights of residents in retirement villages but, and I have made this point in response to previous draft Bills, the Act should provide for severe penalties for operators or their agents who attempt any coercion or intimidation of residents or attempt to deprive them of any of their civil liberties. I assure you, Minister, that such things do not happen only occasionally; it is not an exaggeration to say they are rife.

I enclose a copy of an article, 'Rights of residence', to appear in the next ARQVR newsletter. The content was not plucked out of the air."

I seek leave to table that article.

Leave granted.

Mr DAVIDSON: The letter then continues—

"The part of the Bill which deals with resident participation in the running of the village actually decreases what very little participation is conferred by the present legislation. What has increased in this Bill is the right of the operators to interfere in the activities of residents. The provision for operators or their agents to call meetings at almost the drop of a hat simply increases the operators' opportunity to bulldoze something past unwitting residents without allowing them time to consider or take advice. The provision to allow operators to address meetings of residents' committees is to increase the operators' opportunity to bring undue influence on the deliberations of the committee. Such things as these should be prohibited, not encouraged.

These provisions have obviously been requested of you or your department by the operators' lobby. And you or your department has chosen to allow them, to the considerable detriment of residents.

This Bill has failed to introduce the accountability for which residents have asked. You have not provided for residents' participation in any of the budgetary procedures. All financial matters and all financial decisions regarding the expenditure of residents' funds you have left, quite unequivocally, in the sole control of the operator. Periodic statements of income and expenditure is not good enough. It is not the bringing to account that residents question. It is the propriety of the expenditure of their money! Whether what is meant for maintenance is getting diverted to development, for example.

It happens, Minister, it happens. Those few, heavily outnumbered representatives of residents on your review committee were able, over a very lengthy series of meetings, to extract some concessions from the intransigent owners' lobby.

You have done absolutely nothing to advance the cause of residents beyond that level of limited agreement. Indeed, you have introduced measures which militate against interests of residents those unscrupulous practises which oppress so many residents and of which you are thoroughly aware were made possible by the 1988 Act's silence on the issues.

Your Bill is not silent. It legitimises them, enshrines them, in an Act of Parliament.

Last year when you became Minister responsible for retirement village affairs, you undertook to address the matter that most concerned so many residents: years of having to

wait, after vacating their unit, for any return of what they paid for their unit, years of continuing payment of service charges and continuing accrual of the exit fee payable to the operator. You have done precious little to improve the lot of future residents; you have done absolutely nothing for existing residents.

The most common expression in your draft Bill is 'does not apply to existing residence contracts'. It reduces the references you have made from time to time about the sorry plight of so many residents to nothing more than pious rhetoric, of which we had so much from your predecessor.

This Bill is incredibly anti-resident, Minister. I do not believe that you or your advisers have all been suborned by commercial interests, but, when it comes to legislation to protect consumers, which is the *raison d'être* of an office of consumer affairs, you have shown yourselves to be thoroughly inept. You should all resign or be sacked from anything to do with consumer affairs in general and retirement village legislation in particular.

Residents across the State will be thoroughly disappointed with your abject failure to do anything for them. It is eminently possible that there will be a symphony of protests from residents, when they realise that you have comprehensively betrayed them. I have to say that I am not only likely to join that symphony, I am likely to do my best to help orchestrate it."

Then followed 10 tightly typed pages covering a plethora of clauses justifying the sentiments set out in the letter.

By reading that letter I do not suggest that all residents of all retirement villages harbour those sentiments. They do not. Many residents manage to get along quite amicably with the operators/managers of their particular villages. That appears to be especially so in complexes that might not be considered profit oriented. While many have expressed concerns to me about the sorts of practices that fostered the contents of the above letter, I have received information from others who are almost entirely happy with their current positions.

As one would expect from the tone of that particular letter, many operators who abide by the current Act have very real and legitimate concerns that the industry as a whole could be tarred with the same brush, and that simply is not the case. Equally it is true that even the conscientious managers/operators and residents of retirement villages have concerns with this Bill. As one developer/operator put it, Part 5 of the Bill needs redrafting in its entirety. It is that person's opinion that Part 5, which pertains to the operation of schemes that have been outlined in the Bill, will be the cause of more disputes than ever, because he believes that that section is simply not workable. He has given some excellent examples to prove his position.

Mr Speaker, I do not know about you or your brethren opposite, but where I come from the letter that I read and its attachments would be considered a monumental serve that one might expect someone to have taken some notice of. If a person had received not one but a number of similar replies to their call for a public response, surely the message should have sunk in that there were some very unhappy people in suburbia who felt outrageously betrayed. Surely the line, "This Bill is incredibly anti-resident ..." says it all.

As the writer pointed out in the early part of his letter to the Minister, the matter of legislation for retirement villages is not a matter of drafting and detail, it is a matter of philosophy. That point is obviously lost on this Minister. The bell should have rung for the Minister and her advisers right about then, but if it did it must have registered in a far away brain. As the Bill that has been tabled with much fanfare in this House by Minister Spence shows, very little of the core complaints about the original draft that I know found their way back to her department were acted upon.

A further example of this betrayal comes from an elderly lady who has lived in a village for almost seven years. She is representative of many elderly ladies who are left on their own, usually with only a pension on which to live. To such people, the proposed changes are entirely unsatisfactory. That lady wrote—

"I send this copy to you because of my anxiety"—

note that word "anxiety"—

"regarding several important clauses at present contained in the consultation draft with the hope that you and your other Opposition colleagues will vigorously contest those sections of the Bill which appear to negate the favourable conditions of some leases and which introduce other clauses which are disastrous for the future of present retirement village residents. As an elderly single age pensioner and a resident of"—

a certain village—

"for approximately 7 years, my concerns are very real and I can, from experience, vouch for their authenticity. If the draft is introduced as legislation without amendment, it will confirm the opinion of many of my fellow retirees that we would be better off living outside a retirement

village. Your support in these important matters is vital to residents and to the future growth of the industry, and I thank you in anticipation."

One might now better understand my comments earlier about the Minister's 20 July 1999 comments that this legislation would improve living standards and give residents greater peace of mind. The comments in the letter that I have just read do not give any substance to the Minister's claim of providing greater peace of mind.

It is not too difficult to understand this lady's concerns when one reads in her submission—a submission to the Minister that has yet to elicit a reply—the following statement—

"Clauses 101(1) to (5) are dangerous to residents of this village unless a 'cap' is placed on maintenance reserve fund charges the operator may impose."

The lady then goes on to advise of the poor management outcomes in her village and quotes a current letter from management that proposes that her fees should rise from \$200 a month to \$309 per month. As the lady points out in her submission, for single pensioners this increase would mean forgoing some of the necessities of life. Can honourable members imagine that lady's state of mind when a second letter from the management of her village advised—

"The new Act compels (when enacted) the payment of maintenance fees struck by management and corroborated by the surveyor, whose fees will be paid by the maintenance account."

Is it any wonder that the word "betrayed" keeps raising its head when this Minister rises in the House and makes the sanctimonious assertion that she has saved the retirement village folk from a fate worse than death? If the Minister for Fair Trading had, just once, listened to those who sought her intervention on their behalf in this matter, she would forever have found a dedicated group of people who, along with their families and friends, would have become a cheer group forever.

What this Minister has created is a dedicated and far from frail group of people in the community, who now know first-hand what we on this side of the House have known for years—that here we have a Minister totally out of her depth and out of touch with anything other than the selection of toilet brush holders, despite the lofty speeches of the can-do ability of this Beattie Government, which time and time again, as the Bill shows, only serves to hoist this Minister and her colleagues with their own petard. And all of this in the Year of Older Persons! What a mockery and insult to these older people that this Minister claims to have listened to them!

The abrogation of her promises to current residents of retirement villages—the entire 22,000 plus of them—is no better spelt out than in her second-reading speech, which says—

"The working party considered the application of the Bill to existing villages and residence contracts and it was considered that these matters are the responsibilities of operators and residents and the Bill is merely setting out a structure for both."

If honourable members think this is a total cop-out from the residents' viewpoint, imagine what they must have thought when this statement followed in the Minister's grand performance in this House at the last sitting. The member for Mount Gravatt said—

"The working party considered that, if the Bill applied to existing contracts in these cases, it would create undue financial hardship on operators and their financial structure could be affected."

To quote the Minister's second-reading speech when she presented another Bill to this House, this is the type of transparency we are used to in Queensland, particularly as it applies to operators and residents. Everything in that statement is transparent. I repeat: is it any wonder that the residents of retirement villages feel rejected, overlooked and betrayed? It would appear that, if any of the operators had replied to the Minister's exhortations to respond to the original draft Bill, then the tenor of any responses they may have made has received the same attention that many of the residents received, which is obviously nil.

The Minister cannot say that this was all news to her before she presented this Bill to this House. Prior to so doing, she went up to Buderim to meet village people in their own territory and she was left in no doubt what this representation of village folk expected to find in this Bill. With a grandiose flourish that she obviously sees as her trademark, she regaled this audience with a view that she was the only Minister, or member of any party, who really had their interests at heart—a statement which should have told these long enduring folk who knew better that here was a member of a Government who really only wanted to hear herself eulogise her own performances and that she and her governmental colleagues really did know what was best for residents and the industry everywhere. That was in Buderim.

Ms Spence interjected.

Mr DAVIDSON: I have been to Buderim. I have spoken to all those people at Buderim. The Minister went up there twice and twice she made certain promises to them, yet she has not delivered one. If she ever goes back to Buderim she had better be very careful; they are waiting for her.

Ms Spence: You have never been there yourself.

Mr DAVIDSON: I have been to Buderim. I have spoken to those people. They are waiting for the Minister to return to Buderim. They want to know when she is going back to Buderim.

When Minister Spence departed from that meeting, she should have been more aware of what those villagers wanted in this Bill because they had treated her treatise with disdain and had given her advice, which she would have been wise to heed. If Minister Spence is planning another trip to Buderim, or even Nambour—they are waiting for her as well in Nambour—she would be well advised to do so only after seeking advice.

Honourable members will recall the statement contained in the letter I read to this House from a village resident who has more than a passing knowledge of the much touted working party the Minister places so much faith in—"and because of that association's participation, albeit scandalously outnumbered in the review process." It is not difficult to see why many residents feel that this Bill is nothing more than a blueprint and a handbook for future village operators and developers.

The Minister in her speech was at pains to point out that the working party concluded that the main disagreement about the continuation of service charges after vacation would be dealt with more effectively by having stricter processes in place to encourage more timely resale of units. In this case, any breach would entitle a resident to seek intervention by the tribunal. In the words of one Buderim village resident, what a load of codswallop! What this ministerial statement alludes to is that great gift to the residents in this Bill, their ability to engage a real estate agent to sell their residency contract after a period of six months after the unit in question has been vacated.

Apart from the fact that many disclosure statements already allowed such an event where both parties to the contract agreed, the fact of the matter is that real estate agents have no real interest in selling retirement units because of the complexities of the disclosure statement, now called a public information document, when it is much easier for real estate agents to sell prospective clients a not-so-complicated property controlled by a body corporate. As residents themselves point out, people interested in entering a retirement village go to a retirement village, not a real estate agent's office, to seek the information they need to make such a decision.

There are 238 clauses in this proposed legislation and there are many that do appease some of the concerns of village residents. As has been expressed earlier, this Bill should not simply be a matter of detail and drafting; it is a matter of philosophy. Thus honourable members will understand that, for many residents who elected to enter villages because at the time the obligations and responsibilities of both parties to the contract provided the residents with better conditions than were available at other villages, those residents now have a major concern as to the ramification of clauses within this document that has been presented to this House.

There is a major concern that the new disclosure statement and clauses therein and their ramifications will alter the nature of the original contract of residency, which included as clauses to those original contracts the conditions which made those contracts and those villages more favourable. As recently as March 1999, the ARQRV, in reporting on the progress of this Bill, advised that existing contractual commitments cannot be altered. This is all that residents who have carefully entered into those commitments require. It is agreed that there is a need for some villages to have minimum conditions imposed by legislation, but that does not equate with other and existing villages having their contracts reduced to that lower minimum level.

The clause that brings most concern in this area is clause 42. The word "agreeing" in "agreeing to conditions more favourable" is future tense. Existing contracts have already been "agreed to"—past tense. This is the thrust of the concern expressed about this clause and the misgivings about operators having grounds for amendments to contracts, including public information documents. Existing contracts with their relevant clauses are considered to be sacrosanct, and any enforced changes as may be provided by this legislation would have the effect of changing the laws governing contracts and the relevant clauses of those contracts.

Clause 57(c) is also a matter of extreme concern for residents and it is a particular area about which the Minister has been made aware in no uncertain manner as to residents' wishes. The use of the words, "provisions at least equivalent to" could tie up opposing legal counsel for days. In other places, so could words such as "more beneficial". Who decides what is more beneficial in these circumstances?

The ultimate payment of exit entitlement is a major concern to all residents, and existing benefits must not be eroded in any way. Each village is geared to handle existing procedures subject to any enhancement with any better conditions which the new provisions may impose. It may be obliquely intended that the new provisions are mandatory or offered as a package deal. But it is imperative that

any perceived superior existing rights of residents must prevail in these circumstances. If Minister Spence fails to take notice of this major concern about this legislation, over 22,000 people will make her think that the net bet affair is merely a storm in a casino.

Again on the matter of exiting rights, the second paragraph of the Minister's second-reading speech says—

"The agreement was reached after operator representatives agreed to the remainder of the resale provisions applying to existing residence contracts and agreed to giving the tribunal power to order the payment of an exit entitlement to a resident if those resale provisions are not complied with.

It is difficult to determine what benefit accrued to existing residents, but it does appear that the operators have agreed that the remainder of "resale provisions" shall apply as a package deal to existing contracts in the circumstances outlined in my previous comments about clause 57(c). If so, it would result in residents in those circumstances incurring thousands of dollars in resale costs and commission where the operator had specifically excluded the resident from those costs. It would be a diabolical betrayal of the rights of those residents not to be condoned under any circumstances.

Many of those residents are elderly and do not seek benefits to which they are not entitled, only benefits for which they have existing contractual agreements. The extent to which operators need financial assistance from residents may be gauged from the lead article in the property section on page 23 of the Courier-Mail of 21 July, which announced million dollar expansion plans. Financial assistance to operators is non-existent and needs no encouragement.

In the area of personal services charges, clause 20 provides that a maintenance reserve fund contribution is a proportion of the general services charge. Can the Minister explain why there is no proportion of personal services charge when the equipment used to provide the personal services listed as examples in clause 12(3) would be equally susceptible to maintenance?

This flawed Bill has many such inconsistencies which some of my colleagues will touch upon. Another matter of grave concern is in the operation of schemes and management, which forms Part 5 of this Bill. Clause 97(1) is a prime example. This clause requires an operator to establish a maintenance reserve fund to be held in a trust account upon which the operator is to sign withdrawal cheques. The security envisaged by the use of a trust account under this provision is only illusory. The account will hold on behalf of residents their joint contributions formerly paid into a sinking fund to finance repairs, renovations, replacements and maintenance of a substantial but infrequent or irregular nature. This is the generally accepted purpose of such a fund. The purpose of a payment into a trust fund is self-evident and funds should only be available with the approval and authorisation of an independent trustee. It is inappropriate that an operator act in this capacity.

Clause 46(1) provides for the appointment of a trustee for in-going contributions under a residence contract. This person should also act as trustee for funds held on behalf of residents available only for the purposes specified and should not be available to a receiver or a liquidator in the case of insolvency of a manager or operator. These conditions are present in existing residency contracts. Residents are responsible for the replenishment of this reserve fund and should not see it dissipated by a receiver or liquidator preparatory to the sale of the village to another operator.

In connection with this maintenance reserve fund, the income tax implications of the present legislation also need further consideration. Under income tax ruling 94/24, retirement village operators are given most substantial income tax concessions. Basically, the following provisions apply. A deduction is allowed for all development costs incurred, including landscaping, roads, footpaths and buildings, as well as holding costs during development and normal operating costs. The operator is assessed on the sale price of units, original or resale, exit fees, service fees and other general extraneous income. A deduction is allowed for the exit entitlement paid to a former resident.

It will be observed that these provisions are most generous. However, with the maintenance reserve fund being paid to and under the direct control of the operator, the amounts paid into that fund by the residents for their reserve against future long-term maintenance costs will, under paragraph 10 of that ruling, become assessable income of the operator and subject to tax in his hands. Is this what the Minister wants? The residents reserve contributions being eaten away by income tax payable by an operator! To obviate this, the funds must remain trust funds held on behalf of residents by an independent trustee. In this way, it will only be the interest earned on the reserve which will become assessable. To ensure taxation at a reasonable income tax rate, residents in actual residence from time to time should be presently entitled to have both the income and capital of the reserve applied for the purposes intended.

Clauses 97(3) and 99(2) should provide for payment of income tax, if any. These clauses provide for payments out of the maintenance reserve fund and amounts to be budgeted for the fund respectively. It is noted that clause 100(1)(b) provides for payment into the reserve of interest earned,

which obviously could attract income tax. In clause 103, the operator should be prohibited from paying from residents' service charges his holding costs—that is, rates, etc—on undeveloped land which is being held for future development. He is allowed an income tax deduction for these costs under tax ruling 94/24 as previously indicated. Like any other developer, these costs form part of the establishment costs. Clause 103(3) prohibits an operator from including in a general services charge an amount for replacing village capital items, but it also provides that this does not apply to an existing residence contract. Again, is it any wonder that village residents—the 22,000 plus with existing contracts—believe this incompetent Minister has done a snow job on them?

Presumably, the other provisions contained in Part 5 do apply to existing contracts. I will comment in relation to the contents of a PID concerning clause 113, which provides benefits additional to those specified in the Bill. This is permitted under clause 74(6), but clause 37(4) provides that the Act shall prevail to the extent of any inconsistency with a PID. Are the additional provisions in the PID an inconsistency and therefore of no effect? Will an operator be permitted to amend the PID to provide lesser benefits than previously contractually committed by the operator/developer? Does the Minister know what she is talking about? The answer is obviously no, which will come as no surprise to anyone in this Chamber.

A division of Part 5 of this Bill deals with financial accounts and statements. In the introduction background notes pertaining to this Bill, reference is made to providing effective consumer protection mechanisms for the more than 20,000 frail, aged and elderly people who live in the State's retirement villages. One can only hope that this statement was not meant to imply: "Here is a group of people, wholly bereft of logical thought." In my dealings with retirement village people, I have met and dealt with many people amongst those residents who are a solid core of residents with business, managerial and financial expertise, coupled with commonsense and extended experience of village life. Their views should not be discarded as of no consequence, as it would appear this Minister has chosen to do, judging by what she has placed before us in this matter.

Clause 112 of Part 5 would suggest that the Minister and her advisers do not believe that a level of competence exists in village life. Otherwise, it surely would not have appeared. The clause states that it provides for only quarterly statements of the capital replacement fund and the maintenance reserve fund to be given to residents. What it specifically does not do is provide for quarterly financial operating statements, which suggests that these elderly folk simply would not understand the ramifications of such a document. Nothing could be or is further from the truth. It is even truer to say that many folk in these villages understand these ramifications far better than the Minister obviously does. Clause 113 provides for a financial statement to be given within five months of the end of the year showing income and expenditure during the financial year, including the capital replacement fund and the maintenance reserve fund. Sundry other items are mentioned in this clause.

Does the Minister intend in her Bill that these provisions override conditions in existing contracts which require operators to provide quarterly operational financial statements, annual budgets and costs and service charge calculations which are then subject to perusal by and discussion with a finance committee made up of suitably qualified residents who represent their fellow residents? If she does and if the provisions do mean just that, the objective to facilitate participation by residents in the affairs of retirement villages proclaimed by this Minister in her second-reading speech will not be attained. These are additional safeguards accepted by residents to protect their financial interests in their declining years and must not be eroded.

Auditing by qualified auditors will never substitute for continued local village vigilance by qualified village residents. This comment is even further enhanced when one finds that, in the earlier draft Bill, provision was made for a resident to be nominated to inspect village financial records no more frequently than once per month. In this legislation, there is no such provision. Why is this so? Where there is the possibility of a conflict of interest as to cost allocation by an operator, should this provision be retained under this part? Perhaps somebody just forgot about this. Perhaps someone might like to reconsider this point, as indeed someone might like to reconsider this extraordinarily inept and totally reprehensive litany of betrayal and just plain stupidity.

Other members from this side of the House who do have an affinity with village life and its problems, which are not necessarily apparent in all villages, will address other deficiencies in this Bill. Minister Spence has indicated that she will revisit and review this legislation in 12 months time. Many residents in retirement villages are well into their eighties and nineties. Many do not have a lifespan of 12 months. This Minister would be well advised to fix these obvious deficiencies now rather than expose elderly residents and their families to financial uncertainty and additional commitment, to say nothing of the continued entrapment and anxiety which this Bill now engenders and imposes in many cases.

It is important to mention when discussing this Bill that the Minister faces another group of very discontented folk who currently reside in abodes covered by the Mobile Homes Act. Many but not all of these people are also retirees who have opted for a different lifestyle to that provided by retirement

villages. If the complaints we receive from these folk— complaints which the Minister appears to have chosen to ignore, particularly in the area of rents—are of equal concern to these people, then we give the Minister timely warning that she is on the way to alienating another group of people with substantial voting power who are not at all pleased with her current performance in their areas of concern, and that includes the booklet, *Going Mobile*, that the Minister has endorsed with a statement which says—

"I am particularly pleased that the production has drawn on the experiences of residents, tenants and park owners."

I advise the Minister that, if she proposes to address any of the people who speak to me about problems in the *Mobile Homes Act*, she would be well advised to call out for help.

We on this side of the House are acutely aware that Minister Spence has had many requests from all quarters of the retirement village industry for changes to this legislation. It is timely to point out to the Minister that her Labor colleagues in New South Wales just passed and enacted the *New South Wales Retirement Village Bill 1999*. There are many clauses in this piece of legislation that are of the utmost importance to Queensland retirement village residents—clauses already pointed out to Minister Spence which she has chosen to ignore, even though the retirement industry representatives have brought these needed changes to this Bill to the Minister's attention.

At her public meeting on this Bill in Buderim earlier this year the Minister indicated that she would be adopting an approach similar to that taken with the now enacted legislation. I can do no more than commend the *New South Wales Act* to the Minister as required reading before she proceeds any further with this Bill. I recommend that the Minister withdraw this load of confusing twaddle from the House and start again, that she consider the needs of the elderly in our communities, especially in this the Year of Older Persons.
