

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE**

**Anzac Day Subcommittee**

**Review of Anzac Day Laws**

Melbourne – 25 July 2002

Members

Ms E. J. Beattie

Mr A. P. Olexander

Mr M. A. Birrell

Mr A. G. Robinson

Ms M. J. Gillett

Co-Chairs: Ms E. J. Beattie and Mr M. A. Birrell

Staff

Executive Officer: Mr A. Homer

Consultant: Mr M. Brennan

Witnesses

Mr D. Drew; and

Mr A. Curtain, Shop, Distributive and Allied Employees Association.

**Ms BEATTIE** — Good afternoon, thank you all for coming. This is a meeting of the Scrutiny of Acts and Regulations Committee subcommittee reviewing the Anzac Day laws. We are grateful to have you all here to speak to your submissions. Our first witnesses are from the Shop, Distributive and Allied Employees Association, or the SDA, fondly known as the shoppies. They will speak to their submission. Does everybody have a copy of the written submission? Gentlemen, would you like to begin?

**Mr DREW** — Good afternoon.

**Ms BEATTIE** — I neglected to introduce ourselves. I am Liz Beattie and I am co-chair of the committee. On my left is Mr Mark Birrell, the other co-chair of the committee. On my far left is Mr Tony Robinson, a member of the committee and on my right Mr Mark Brennan who is the legal consultant. We also have our Hansard reporters who are going to take down every word you say in detail; we will not hold it against you.

**Mr DREW** — My name is Douglas Drew. Along with my colleague, Alan Curtain, we represent the Shop, Distributive and Allied Employees Association. The SDA is the largest union in Australia and represents all Australian retail employees. We thank you for the opportunity to present the SDA's position today and welcome any questions that you may have.

By way of introduction, the SDA approaches this review of the legislation regarding Anzac Day from two overlapping directions. Firstly, the SDA is concerned that the demands placed upon retail employees to work on Anzac Day deny our members the opportunity to commemorate this special day. No less important though is the broader issue of the preservation of Anzac Day and the promotion of the Anzac spirit. Anzac Day should be a solemn occasion, an opportunity to afford respect to those who served and protected Australia, often making the ultimate sacrifice. However, Anzac Day is also a day of special celebration of specific ideals to which all Australians feel connected, no matter what their cultural heritage. To this end the SDA believes Anzac Day needs to be protected from commercialisation that would lead to trivialisation and abuse of the spirit of the day. It should not be seen as just another day, nor promoted as just another holiday. In order for the significance of this day to be properly respected in Victoria, retail trading should be severely curtailed on Anzac Day.

With regard to the importance of Anzac Day, the SDA believes Anzac Day and the Anzac spirit are important historical and cultural aspects of Australian society and, as mentioned, the day should not become just another holiday. The dawn service, the Anzac Day march and the ceremony following are popular, necessary and appropriate ways for Victorians to offer acknowledgment and respect to those who served. However, as the number of participants in the Anzac Day march naturally falls, its continuing existence is in jeopardy. The march has long been an important reminder of the Anzac spirit for Victorians: this reminder may not always be there for us. There are very few veterans from the First World War still alive and there is a steady decline in the number of veterans who served in the Second World War. The situation may occur that the only event in recognition of those who fought for Australian freedom is the dawn service, which would limit recognition of Anzac Day in the community.

There is a recognition of Anzac Day as a day of significance by all who live in Australia — those born in Australia and those from other countries who have chosen to make Australia home. Also, without doubt Anzac Day is experiencing increasing popularity. Despite this, any changes to legislation governing Anzac Day must increase protection so as to maintain it as a symbol of Australian ideals in a manner that will isolate and distinguish Anzac Day in the eyes of every Australian. The SDA believes this would be achieved by limiting retail trading on the day. By limiting retail trading, the state government and the Scrutiny of Acts and Regulations Committee will be able to display a serious commitment to preserving the standing of Anzac Day. It is also an opportunity to provide leadership to the community and show the importance of Anzac Day.

Additionally, there are a number of issues important to the SDA and our members. We wish to bring your attention to the confusion surrounding retail regulation on Anzac Day. The current legislation as to the operation of retail establishments on Anzac Day causes a significant amount of confusion to employees and proprietors. This is due to fact that some small businesses are able to open on Anzac Day before 1.00 p.m., larger retail business are allowed to open after 1.00 p.m. and establishments with employees not covered by the SDA, such as liquor and gaming, must apply for and purchase a licence to operate.

One of the major sources of complaint the SDA receives from retail employees is the payment of wages and the interpretation of the Anzac Day holiday — for example, at larger retail outlets there are issues of payment for the Anzac Day morning not worked and the rates applicable to the afternoon when it is worked. Also, for part-time employees there is the situation of payment for public holidays where they are not required to work and are not normally rostered to work on the day on which Anzac Day falls. Complications also occur as to the payment for the

public holiday and the appropriate penalties when the employees are normally rostered to work the afternoon on which Anzac Day falls whether or not the employee works. At times members of the SDA have been told that they have to work on the afternoon as it is only a half-day holiday. The tension created between employers and employees over the confusion surrounding retail trading on this significant day is completely unnecessary and does not befit the nature of the ideals Victorians are commemorating.

The second important issue is that of the scope of shops allowed to open on Anzac Day. The list of shops exempt under the Shop Trading Reform Act 1996 and currently allowed to trade on Anzac Day before 1.00 p.m. is extensive. Indeed, there are very few types of retail establishments prevented from trading on Anzac Day before 1.00 p.m. In fact, one could have their hair cut, a new suit tailored, shoes repaired and a photograph taken and then head out and buy a new pool, boat or saddle on Anzac Day morning. With almost all types of shops allowed to open, it is more difficult to distinguish Anzac Day from any other day of the year, especially for those required to work. In all other Australian states, except New South Wales, shops are closed for the full day on Anzac Day. I should note that Tasmanian shops will be allowed to open after 1.00 p.m. as of Anzac Day 2003. The SDA believes the only shops that should be allowed to trade on Anzac Day at any time are those operated by the owner of the establishment, provided that no additional staff are employed in the establishment on the day.

There is also substantial pressure on employees to work on Anzac Day. The SDA receives many complaints each year from SDA members pressured by managers and supervisors to work on Anzac Day. The SDA does not believe it is appropriate for retail employees to be asked to work on a day of such significance and importance to the community. Our members come under pressure to forego the time made available under the various federal and state acts to commemorate a defining moment in Australian history and remember those who served this country in war.

Under the present system, even if technically they cannot be forced to work, for some groups of retail workers there is no real choice about working on Anzac Day. The power imbalance in retail is often such that the mere asking of the question by a manager places the employee under pressure, especially with younger workers and casuals. The SDA believes it is better to provide for severely restricted retail trading, as outlined previously, in order to allow these workers the opportunity to observe Anzac Day in an appropriate manner.

The SDA is also concerned about the adequacy of penalties for breaches of Anzac Day trading acts. The current penalty unit provision for breaches of Anzac Day legislation is inadequate for larger organisations, as the opportunity to profit from illegal activity still exists. The SDA believes that provision should be allowed in legislation for the forfeiture of all income derived from the illegal operation of a business on Anzac Day and for the forfeited income to be distributed between Anzac Day funding and charities.

In conclusion, the SDA believes that legislative changes are required to preserve the significance of Anzac Day and distinguish it from other public holidays into the future. In terms of the SDA's membership, the SDA believes retail workers should be afforded the opportunity to join with other members of the community in spending this day in an appropriate manner away from the workplace. In order to achieve these goals, the SDA's position is that retail trading should be severely restricted in Victoria. Shops should not be allowed to trade on Anzac Day at any time, unless they are operated by the owner or owners of the establishment. Additionally, increased penalties will assist with the support of both Anzac Day and other community projects. This position provides for an environment in Victoria where Anzac Day is held to be valued by the state government and is able to be respectfully and sincerely commemorated by all the community, including retail workers.

Thank you for this opportunity to present the SDA's position. Alan and I will be happy to answer any questions from the committee members.

**Ms BEATTIE** — Thank you.

**Mr BIRRELL** — Can you give me your understanding of what the law is for the afternoon? You commented that some employers say something along the lines of, 'It is only a half-day public holiday, so you have to work in the afternoon'.

**Mr DREW** — Yes.

**Mr BIRRELL** — Can you expand on that?

**Mr DREW** — The complaints we receive from members are such that generally after the fact they will call the following day — because unfortunately the SDA is not open on Anzac Day — complaining that they were

told they had to work in the afternoon after 1.00 o'clock. Because there is this division across the day, there is a misunderstanding and a confusion that the public holiday stops at 1.00 o'clock and that if the shop wishes to open then the — —

**Mr BIRRELL** — It can.

**Mr DREW** — The employee has to work.

**Mr BIRRELL** — So they are not complaining that the law was broken; they are complaining that the law is crook?

**Mr DREW** — Yes.

**Mr BIRRELL** — Okay.

**Mr DREW** — The situation comes back to the confusion created. It creates a tension between employees and employers that does not help the relationship in any way.

**Mr BIRRELL** — Right. Are there any other half-day holidays that you are aware of?

**Mr CURTAIN** — No, not that we are aware of.

**Mr BIRRELL** — I am not either.

**Mr CURTAIN** — Speaking of confusion, Sir, we were quite confused in putting this together. We had to go back to the Shop Trading Reform Act and double-check to see the confusion associated with the day. We were thinking that if we are confused— and our members are ringing us and saying how they are confused as a result of the trading hours of the day— —

**Mr DREW** — Yes, it takes a number of readings of the act to pin down with any certainty — —

**Mr BIRRELL** — I do not think that section of the act has altered for probably 80 years. It was untouched in the 1996 reforms and I think has probably just stayed the same.

**Mr DREW** — In itself it reads straight down. But when you start relating it to schedule 1, which is the exempt shops, and then try to reconcile the two as in less than 20 employees after 1.00 p.m., any confusion is understandable.

**Mr BIRRELL** — Is it also SDA policy for, say, Christmas Day, that the types of rules you have suggested apply to Anzac Day should also apply to Christmas Day?

**Mr CURTAIN** — We have not looked at Christmas Day laws in relation to this. We have only been interested in Anzac Day particularly. I do not know what the policy is in relation to Christmas Day and the hours. I can certainly find out.

**Ms BEATTIE** — Would you have not sought to get rid of that confusion in enterprise bargaining agreements (EBAs)?

**Mr DREW** — Yes, there are almost 90 enterprise bargaining agreements which we are party to. They are progressively being updated, but that takes the agreement of employers as well. Also we have a significant number of employees under schedule 1A of the Workplace Relations Act 1996 who are not afforded that sort of protection at all.

**Mr BIRRELL** — With banks — I presume you do not cover banks?

**Mr DREW** — No.

**Mr BIRRELL** — Even though it is a half-day holiday, banks are shut for the whole day. What is your experience of retailers, as to the types or number of them that do open sometime in the afternoon as against those who just shut for the day?

**Mr DREW** — It is our understanding that the majority of retailers open in the afternoon. It is not something that I have statistics on and I would not like to comment any further without finding that out.

**Mr CURTAIN** — In respect of the public holidays mentioned in the EBAs, Anzac Day is tacked onto them— there has not been any special provision to have Anzac Day half-day mentioned in there.

**Mr ROBINSON** — I would like to try to be quite clear on this point, if I could. I apologise, you may be research staff rather than industrial officers so I am not asking you to give me an opinion, and I am aware this is quite a technical area. The way in which Anzac Day is dealt with in awards, workplace agreements or arrangements that are forged— I know you cover quite a bit with the system we have here in Victoria — am I correct in understanding that Anzac Day is not treated any differently from any other number of public holidays across the state, and that it is considered to be a public holiday half-day arrangement, and that is the significance of it?

**Mr CURTAIN** — In the enterprise bargaining agreements that I have been looking at— the big ones like Coles, Safeway and all that sort of stuff — it is mentioned as a public holiday; there is no mention saying it is half-day.

**Mr ROBINSON** — A public holiday?

**Mr CURTAIN** — A public holiday.

**Mr ROBINSON** — So it is not referred to as Anzac Day, it is just known as a public holiday?

**Mr CURTAIN** — Correct.

**Mr DREW** — And the act covers the regulation of that day, so attempting to negotiate that away is an extremely difficult situation.

**Mr ROBINSON** — To the best of your knowledge, has it always been dealt with that way— just as another public holiday?

**Mr CURTAIN** — Yes, to the best of my knowledge it has.

**Mr DREW** — We cannot speak to the intent of the way it was negotiated; we can speak only on what we see as the final document.

**Mr ROBINSON** — I imagine that back in the 1950s, 1960s and a good part of the 1970s retailers did not open on Anzac Day; that it was very much a situation as it still is in other states, where you could fire a cannon down most high streets and there was nothing going on at all. Sorry, that was an unfortunate metaphor, actually!

**Mr DREW** — To be honest, that also comes before my time, because the nature of the regulation of work changed significantly in the early 1990s and the way the union and employers were able to obtain their ideal situations forces the result of an enterprise bargaining agreement to come out in a certain way. To a great extent it is a compromise and it is an agreement on wording. I know I am not really answering your question, but I am just trying to explain some of the history as I am aware of it. Some of the enterprise bargaining agreements are now somewhere in their second, third or fourth iteration, and by that nature things that were determined back then are not often changed; and without understanding the intent of each party back then we could not answer any further.

**Ms BEATTIE** — You say the SDA is opposed to trading on Anzac Day other than by the owner-operators of businesses. In some of the small country towns, and indeed in Melbourne, sub-branches have their own marches; there will be floral tributes on the day and the local baker might open with a couple of staff to bake bread on the day for a bit of a barbecue afterwards. How would the SDA cover and react to those situations?

**Mr DREW** — It would be difficult for me to answer that because I am not aware of the SDA policy on that particular question. So far as the circumstances go, most start baking the night before Anzac Day. If the shop did not trade or the owner chose to trade by himself, it would be consistent with what we are saying. The bread could be provided without the shop trading if that was the issue in that particular situation.

**Mr BIRRELL** — I think we all agree that the list of shops that can open is historic; with saddles and things like that mentioned it was obviously a different time. But I think at the core of the list is the aim of providing for emergencies, even a home emergency, on Anzac Day morning, such as the need to go to a chemist or the need to drive your car to the march but it is out of petrol or it has broken down. Can you just respond as to whether in a policy sense you can see a role for shops that cater for emergencies? A chemist is a classic example, and they are shops these days. I do not know if you cover chemists, or perhaps you cover chemists that are in supermarkets.

**Mr DREW** — We do not cover the pharmacists, but we cover the pharmacy assistants.

**Mr BIRRELL** — What is your view on chemists being able to open before 1 o'clock?

**Mr DREW** — I will not be pedantic — I am happy to answer any particular situation — but given the situations you gave, we have shops such as most service stations these days that cover any range of products; there are also 7-Elevens and pharmacies. There is nothing to prevent the pharmacists opening the shops on their own terms. They are not shops that require a large number of staff and would most likely be able to be operated by the owner.

**Mr BIRRELL** — I know in my area there is this name on the pharmacy which says that it is Fred Nerk's pharmacy, but he has not been seen for some time, but I think under law they have to have a pharmacist. I presume that pharmacist is employed by the person who is named on the pharmacy. I do not want to be pedantic either, but we are in a situation where if we were to pass a law saying that the only people who can open a pharmacy are the owners and there was no owner, I think a lot of pharmacies would be shut on the morning — in my area probably all of them. That is not your intention?

**Mr DREW** — No.

**Mr BIRRELL** — Can you see this issue?

**Mr DREW** — I can probably see ways around the issue rather than that actually being an issue.

**Mr BIRRELL** — I refer to petrol stations. How many owners own petrol stations? I mean the number would be tiny, wouldn't it?

**Ms BEATTIE** — Most are franchises, aren't they?

**Mr BIRRELL** — Aren't the bulk of them run by franchisees or managers? Presumably the owner of Shell petrol stations lives in Western Europe.

**Mr DREW** — I am not familiar with the statistics of the petrol station ownership. I am aware that there was a concentration towards their being owned by the actual oil companies. But I am perhaps sticking my neck out a little bit here in saying I would imagine that a franchisee would be considered the owner for that purpose.

**Mr BIRRELL** — I must say, certainly from my perspective, we are not trying to get you on the record to find some technical argument that we can quote in the report. We are just trying to explore the issue. We have no problem with saddleries and things like that. I do not know why photography shops necessarily have to be on the list. But some of the others stand out as being logical. Some of them are saved by not being shops. For example, a general practitioner's office is not a shop, even though it is providing health services; a pharmacy just could fit into that category, but unfortunately historically it is called a shop.

**Mr CURTAIN** — It is almost a question of whether we go through and tick what should and should not stay.

**Mr BIRRELL** — The RSL's submission is doing just that: it has gone through the list and said, 'These are historic and nonsensical, these are being abused', but there is a core of ones which the RSL thinks should be allowed to stay open.

**Mr CURTAIN** — I think at the heart of our submission is the importance of recognition of the day as it is. As Mr Drew was saying, the calls we get from members afterwards range from comments like, 'I did not know whether I was supposed to work or whether I should have worked', 'I got called in because I got told it was only half a day', or, 'I wanted to spend time with family' — that was a really significant one — and yet they were unable to because they had been rostered on to work. They are real issues that are coming from our members, which is what we wanted to put in the spirit of our submission.

**Ms BEATTIE** — Would it be true to say that it is the larger retailers you are concerned about rather than smaller retailers?

**Mr DREW** — No, I do not think that would be an accurate representation; it would be all retailers.

**Mr CURTAIN** — Absolutely.

**Mr ROBINSON** — May I follow up on that question by asking: to what extent is the law not being complied with? You have talked about illegal trading — whether it is illegal or unauthorised; what is the incidence of that? Is it growing? Is it substantial or is it spasmodic?

**Mr DREW** — As the law stands at the moment we are not claiming there are large breaches of trading. What we are saying is that if there was a restriction in the changes to the shops that should trade then the penalty provisions should also be changed.

**Mr ROBINSON** — Sure, but I am trying to understand the situation as it exists now, because I imagine that there are lots of shops that probably do trade beyond the terms of authorisation; it is just that no-one makes a fuss about it in the public sense, and I am not even sure who you would report it to. Do you know who we would have talked to about the breaches of the current law on that front?

**Mr CURTAIN** — It is a good question. I have often wondered what these penalty points mean— the thousand penalty points that you lose. The interpretation of those penalty points in relation to the discussion paper is different to what is in the Shop Trading Reform Act.

**Mr ROBINSON** — It used to be in the Department of Labour and Industry years ago.

**Mr BIRRELL** — Industry and Innovation.

**Mr ROBINSON** — Yes, right. But SDA does not necessarily have any details or data on it?

**Mr DREW** — No data. What we gather is from the employees who call us and notify us of the breaches of the agreement and misinterpretations of the act, which is probably how we would prefer to say it, within the current case, rather than an illegal act. We honestly believe that at present it is the confusion created that causes most of the problems.

**Mr BIRRELL** — One final question. Historically no-one owns Anzac Day but the RSL is a fairly respected custodian of it; their argument is that up to 1 o'clock is a period of commemoration; after 1 o'clock — not their words — you can let your hair down. You know, sports are okay, entertainment is okay. It is a time of enjoyment. It is a different period. You are arguing that the whole day should fit in effectively in the period of commemoration. Do you want to expand on that argument?

**Mr DREW** — At the risk of bringing it to a personal level, my father is a Second World War veteran. On Anzac Day two friends and I gather up the members of his unit from the eastern suburbs and we bring them in to the dawn service. We then take them back to the start of the march, they march; we then take them back to their reunion. On occasions the logistical problem created by two of the members of the transport team having to go back in to work in the afternoon is still causing a problem for people who are part of the actual march. We have to find alternative transport for them. So with respect I understand the RSL's position as far as it being a free-for-all, in your words, after 1 p.m. However, that does not reduce the impact on not just the wider community but also the actual individuals and on the returned servicemen involved in the Anzac Day commemoration.

**Ms BEATTIE** — I have been handed a note that states that each penalty point is worth is worth \$100, so 1000 would be \$10 000, but I cannot recall when fines have ever been imposed.

**Mr BIRRELL** — Hopefully we will find out from the department how often there is a fine.

**Mr ROBINSON** — One final question. You have drawn the distinction between large and small retailers in your submission. What do you understand that distinction to be?

**Mr DREW** — The smaller retailers, according to the act are businesses that employ less than 20 employees, and that includes the owner of this establishment. Retailers with more than 20 employees are allowed to open after 1 o'clock.

**Mr ROBINSON** — Is that a distinction that sits readily with the sorts of distinctions you use — the work you do on behalf of employers dealing with employees in retail settings?

**Mr DREW** — I do not think we should answer that; that would be a policy of the SDA that we have not approached with this research as to what constitutes a small or a large business.

**Mr BIRRELL** — Would it be fair to say, though, that that has been the historic legal position in Victoria — that up until 1996 that was the small/large differential; the law of Anzac Day applied to every day?

**Mr DREW** — Okay, yes.

**Mr BIRRELL** — I am not trying to puts words into your mouth.

**Mr DREW** — No, that is fine.

**Ms BEATTIE** — Thank you very much, Mr Drew and Mr Curtain, for your time. We will keep you informed as our deliberations go on. Thank you very much for your generosity and your welcome submissions.

**Witnesses withdrew.**

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE**

**Anzac Day Subcommittee**

**Review of Anzac Day Laws**

Melbourne – 25 July 2002

Members

Ms E. J. Beattie

Mr A. P. Olexander

Mr M. A. Birrell

Mr A. G. Robinson

Ms M. J. Gillett

Co-Chairs: Ms E. J. Beattie and Mr M. A. Birrell

Staff

Executive Officer: Mr A. Homer

Consultant: Mr M. Brennan

Witnesses

Mr J. Taylor, Chairman; and

Mr D. Baguley, Project Manager, Shrine of Remembrance Trustees.

**Mr BIRRELL** — We want to keep this relatively informal, as you can imagine. Thank you for coming. We are finding this an enjoyable but historically complex area and manifestly sensitive, so we look forward to you providing some solutions. I will hand over to you and then you will have some time, if you want to, to expand on some of the thoughts you have, and then perhaps we will have some questions and answers.

**Mr TAYLOR** — Thanks for the invitation to come along today. Basically, we have only just received the discussion paper so we do appreciate the opportunity to interact with the committee. If you would like us to put something officially in writing we are happy to do that later on.

**Mr BIRRELL** — Yes, whatever you would like to do. I guess we would welcome something which outlined your thoughts. In particular, I might say without pre-empting your comments, an issue we are struggling with is the need to make sure we are sensitive to the heritage and emotional significance of Anzac Day. No-one is the lawful custodian of that, but the shrine would go a long way to having a role, and anything that you could put in words that outlined the significance of the Anzac spirit and the broader role that you play in terms of that would be really welcome.

**Mr TAYLOR** — Stop me at any stage if the committee has any questions, but I suppose the relevance of us coming today is linked to a few things in our minds. Although we do not organise Anzac Day; as the discussion paper said, we are the key venue for the major celebration that takes place. I think probably some of the more important things take place over the road in other venues afterwards rather than before, as I am sure others will mention!

We believe the shrine is the key focal point. It is undergoing major development at this point of time, and I am concerned to make sure the committee is aware of what we are doing down there, particularly from the point of accessibility and education. These are the two things that we are concerned about at this stage in stage one. We have also have longer term development plans, which include galleries of remembrance, so that is another issue we would like to touch on.

One of the challenges we have is funding for both development and the ongoing operating costs of what we are seeking to do. I suppose the thing that caught our attention in the terms of reference was the importance of education in an ongoing sense, and the importance of patriotic funds, which I will come later on, which is an appropriate relevant source of the funds for the sorts of things we are trying to do.

I guess by way of general introduction we would put the proposition on the table that the shrine has a huge untapped potential in terms of being a focus for relevant and related education programs. The discussion paper covers the shrine itself in terms of the 1999 act. The Minister for Environment and Conservation is the minister we report through, because of the Crown land nature of the site. There are eight trustees, and I have been appointed chairman. I think it is really important that the way the trust is set up these days with nominees from Legacy, the RSL and the City of Melbourne. The sorts of positions we are able to put now take account of their views. Normally, before I came to a committee hearing like this I would do a lot more consultation with Legacy and the RSL, but we just have not had the opportunity. We have spent a lot of time working together and what I will be saying today would be the consensus of the trust's position.

There are just a few facts that are worth remembering — and we will cover these in a formal submission. There are 5000 visitors per week at the shrine — it is a major tourist attraction; 300 school groups per year go through the shrine; people from 12 tourist and school buses per day go through the shrine; there are 120 wreath-laying ceremonies a year; and of course it is not Anzac Day any more for us — it is Anzac Week: it has developed into an effectively week-long program with a variety of activities. You correctly say that the shrine is not only about the heritage of the building, but it is a world-class monument. If you look in the architectural magazines you see the pyramids and others, and the shrine rates amongst a lot of very significant world-class monuments. It surprised me how significant the monument is considered to be by the architectural community.

The shrine itself has been gradually evolving over time; it is not static. Often people do not realise that it was not until 1934 that the main building was completed — many years after the end of the First World War, which finished in 1918, so there was a huge amount of work to get that project up. It was not until 1954 that the World War II cenotaph and the forecourts were completed. The post-World War II memorial gardens around the side were not completed until 1985. So it has been a gradual progression, and it has been evolving. It sits on about a 13-hectare site. We feel that reinforces the importance and significance of it as a focal point for things like Anzac Day and Remembrance Day.

In terms of developments, the first major development that the immediate past trustees, our life governors, have been involved with was the restoration back in the early 1990s, when \$3 million was spent at the shrine. It was actually structurally deteriorating rapidly. That has given us a very good platform to work from. On 24 April this year we announced the first stage development of the shrine, which is a \$7 million development program. That is principally funded through the Community Support Fund for \$2 million and the Federation Fund for \$5 million. The stage 1 development is the core infrastructure development we have to put in place to enable us to improve access to the shrine.

The biggest single challenge the architects had in that development was to work out how you could actually provide an alternative disabled access opportunity into the shrine without taking away from the heritage character of it. We have done that through a construction in the earth mounds around the shrine. The building has not been touched. There are very large earth mounds around the outside, inside the circular walkway, so we have designed a new entry feature there.

I guess the challenge that we were trying to address was that at the moment the shrine works very well for ceremonial activities but not for elderly visitors, by the time they clamber up the steps — and we have real problems with disabled people. When visitors go through the entry door they virtually need to be taken by the arm by a volunteer and led around for an explanation of the shrine. There is just no proper reception point and you cannot say, ‘Arrive at the reception desk; there’s a tour every half-hour’. It is extremely difficult. We used to have a little shop facility around the corner, on a card table — that is how pokey it has been in terms of reception. It is ideal for ceremonials but not for the other 360 days of the year that we need to operate there.

The new facility, as I said, will have a very much improved entry feature. Within that development we are going to have a big multipurpose room where we will have an audiovisual. People will be able to walk into the shrine, there will be a proper reception desk and they will be able to watch a 6-minute audiovisual which will orientate them to exactly what the building is all about and its relevance. There will be function rooms and a shop. At the moment the administration of the shrine is out of the town hall. It is almost impossible to administer from the town hall when the day-to-day activities are down at the shrine itself.

The shrine guards are in the building on the right as you drive into the grounds of Government House, so they are going backwards and forwards to the shrine all the time. We will be able to consolidate all the staff in the building.

We have plans for a number of features inside the stage 1 development. The sorts of things that are in our plans are a model of the shrine and the surrounds, so that when you are in there you can actually see how everything is orientated. There will be a history wall that explains the history of the development of the shrine. We have planned a wall of medals, which will be a wall nearly 50 metres long. It is intended to be very high impact, to convey the size of the service that was undertaken by Victorians in conflicts. There will be a number of other smaller features, but those are the ones that will be incorporated in stage 1.

In terms of future developments, right now, underneath the shrine there is about 1 acre of space and in the mounds themselves there is at least another acre of space. So there is a huge potential for us to think about what else we can do down there. The next stage of development is what we have called the galleries of remembrance. So we will move from improving access and the basic education focus required in the building to other displays which can much more graphically orientate people to the sort of involvement we have had in conflicts over the years.

I guess the key people we are aiming our education programs at are the young people. We find that they are the ones who want to understand about it, anyway. It is appropriately said in the discussion paper that they also want to visit the war memorial in Canberra and go to Anzac Cove and all that sort of thing.

The thrust we are adopting in all the work we do is to focus on the service and sacrifice of Victorians — that is what the shrine was originally put there for — and really focus on the youth of today and try to get the message to them that the quality of life they enjoy today is due to the service and sacrifice of others. We believe we should not just be looking back but we should take this huge opportunity to teach values. So we are trying to look forward, not just backward — learn from the past and look forward.

We are finding from the research we have done — and I guess a lot of it is just with the students who come down there — that the students are very interested in their ancestry, particularly those who have had parents or relations involved in conflicts. They really want to know: which towns did they come from, where did they train, where did they serve, what experiences did they have, and what battles were they involved with? We believe there is huge potential to explain geography and history and what lessons we have learnt — we seem to be repeating the mistakes time and time again — and we can demonstrate that kind of thing. Very importantly, it is the teaching of

history, what we can learn from it as we look forward, and, as I said, values. I think that is one of the things we are thinking about more and more — leadership and the mateship-type things that came out of the conflicts.

From my personal point of view, I have been chairman at the shrine for only two years. I had an opportunity last year to go to France and Belgium, to go to Villers-Bretonneux, Ypres and the war museum in London, and it actually convinced me that the vision of our life governors was the way to go. They had a vision of developing galleries of remembrance, but we need to develop our own unique galleries that are relevant to Melbourne. When you go overseas sometimes there is a bit too much of the memorabilia, the guns and everything like that. We can tailor the whole development in a much more focused way.

That is broadly where we are. I have plans I would like to circulate in a moment, if it is appropriate. When thinking of funding and where we go in the future, we currently have federal Treasurer's approval to establish a foundation. For a number of years we have had federal Treasurer approval for donations to the shrine to be tax deductible for development, but the most recent approval is for funds to be donated to the shrine which are tax deductible for operations. That is a huge issue for us because once we start thinking about education programs we have to be able to fund the operating costs of those. When you put galleries in place you cannot just put a display there and forget it; you have to maintain and operate it.

We are excited about that. When we go to corporate and public fundraising that will be an important part of our long-term strategy. The reason I mention patriotic funds is that we have been approached and made aware of a number of associations who, say, from the time of the Second World War, had buildings and assets they have owned. They are thinking of that: they are dwindling in numbers and they are thinking about what they will do with these assets. The position we put is that within the patriotic funds legislation there may be some uncertainty about what a charitable organisation might be. We would like the committee to give some consideration to whether there are benefits in defining the shrine as a specific opportunity for patriotic funds to be allocated, particularly for education purposes.

In summary, we believe there are exciting plans under way, with future plans in the bottom drawer. We would like the committee to seriously think about the shrine being a focal point for future education programs in schools and give its consideration to amending the patriotic fund legislation to specifically enshrine the shrine as an opportunity. To reinforce, we do not only want to look backwards but to learn from the past and look forward to the future. I will show the committee a couple of photographs. I do not know whether you have had the chance to be there lately, but there is a huge hole in the ground at the moment in front of the shrine.

**Mr BAGULEY** — That is about four or five days old.

**Mr TAYLOR** — We are not talking about a small development, but a very large development. That photo is a computer rendition of the multipurpose room and the audiovisual facilities we will have operating inside the shrine. It is amazing what you can do with computers these days.

**Mr BAGULEY** — We will be able to bring school groups into that area and show them the introductory video.

**Mr ROBINSON** — Your construction timetable obviously has to take account of next year's Anzac Day.

**Mr BAGULEY** — The scheduled practical completion is 16 April next year.

**Mr TAYLOR** — As you are walking towards the shrine from the city you strike the first set of steps. They are still there, but everything between that and the shrine has been removed.

That is a small-scale photograph, but if you think about it in plan, I show you a plan of the shrine building at the moment. The earth mound is all the way around the outside. The photograph you have been looking at there is of the excavation for the construction. The circular pathway is around the outside of the shrine and you enter the courtyard, slope down and go down underneath. That is how you enter the reception facility and multipurpose rooms. The big garden courtyard is shown in the next photograph, and it has been designed so big groups of school students can be taken out there by their teachers and our volunteers, and have explained what is happening. From an overall point of view the final photograph I share with you is looking from the north towards the shrine. We have spent a lot of time making sure the new entry is as sympathetic as possible in line with the architecture of the shrine. Mr Baguley has been heavily involved with trying to secure granite from Tynong, which is where the original quarry was located.

**Mr BIRRELL** — We have a few questions. What is your relationship, formal or informal, with the Australian War Memorial in Canberra?

**Mr TAYLOR** — In a formal sense we are completely independent of the Australian War Memorial. In an informal sense we have a constructive relationship with the people there. They have been providing at no cost to us consulting advice on what we are doing. They will be providing at the opening ceremony for the new development an exhibition for us. Sometimes we have exhibitions in here — for example, the John Monash exhibition. We will be working with them to devise what exhibition we will have on day one at the shrine. There is a positive relationship. They have been helping us with a lot of the thinking processes in terms of how we set up the foundation, the sorts of categories of members we should have and that sort of thing. In many respects the way they took us on board when we went up there really encouraged me. We said, ‘We are not really sure what direction to go in’. They said, ‘We have so much material up here, in Canberra, that we will never put on display. There is so much of it with a Victorian flavour and we would love to think there was a location in Melbourne where that could be done’.

**Mr BIRRELL** — One issue we have been exploring is web site access on Anzac material, and part of the fact that everybody deals delicately with the Anzac spirit is that nobody directly seeks to be the portal for information, so that you have the defence forces with some, the Returned and Services League has some, the war memorial has some, but it is very delicate the way it is handled. The Australian government has some, Veteran Affairs has some, but it is an inferior site about Gallipoli and then it becomes a site about the Anzac spirit. All that is great in reality, because part of the reason for the success of the day is that nobody does control it or seek to be the only source of information. If we were to encourage the state government and state governments of the future to get behind the education programs, who should run the education programs? Who should run the Internet site? Who should be the official port of call?

**Mr TAYLOR** — We believe it should be the shrine. That is very clearly part of where we would like to go. The shrine has been a very passive monument. We are actually transforming it from a passive monument to something that is very alive. We see running those sorts of gateways to the Internet and actually developing school education programs as a critical part of the structure. The way we are organised at the moment we basically have an administrative cell and everything else is done part time. To be successful we believe we have to set up an education unit at the shrine and we need to do it properly, with very clearly defined responsibilities and expectations with respect to outcomes.

**Mr BIRRELL** — Is it part of your legislative mandate?

**Mr TAYLOR** — Our legislative mandate is not that specific. The legislative mandate specifically refers to the galleries of remembrance. That was the amendment in 1999. The galleries of remembrance has very clearly got education connotations and focus. It does not talk specifically about the Internet and things like that, but there is an expectation in the legislation that we are involved very heavily in education programs through the galleries of remembrance.

**Mr BAGULEY** — I must just add that one of the exhibition components in this first stage that we are at looking very closely at the moment is an education interactive cluster workstation where children can directly access the shrine web site, as well as the war memorial web site, the veterans affairs web site and the Australian war graves web site. They can access those web sites at the shrine through an education cluster workstation approach. That is one of the things we are exploring at this point in time.

**Mr BIRRELL** — You run on the smell of an oily rag, from memory.

**Mr TAYLOR** — You know!

**Mr BIRRELL** — When I was conservation minister, apart from being surprised to find out that I had responsibility for the shrine, I was also surprised how much the grant is, and I suspect it has gone up by CPI every year since the Second World War. You would not be able to manage the new building without a substantial injection of funds, I presume? Is there a process going on to look at what your future needs are?

**Mr TAYLOR** — Yes. Building on your comments about running very lean, our first priority was to get the capital funding that was necessary to build the infrastructure. Obviously through the normal government budget process we will be seeking operating and maintenance funds. We are also very heavily committed to a lot of self-help. We think there is an opportunity for a lot of self-help and general fundraising. But it is not easy, and we would be naive to think it was an easy thing to find a lot of development money and operating money. We are in

the process at the moment of setting up fundraising committees. Sir Peter Derham is helping us on that activity. There is a lot of goodwill. One of the things that really encourages me is the bipartisan support for the shrine. There is nobody who is not prepared to roll up their sleeves and help.

**Mr BAGULEY** — For example, the audiovisual auditorium development has been sponsored by the Rotary clubs of Victoria already. We have \$260 000 for that.

**Mr TAYLOR** — To be really specific in the response to your question, I think we have a unique opportunity with the vision that the current trustees have to consolidate our effort in one location. I think we would squander that opportunity if we fragmented it. We have a step change in the facility, and we have this opportunity to make a step change in the way we use it as an education facility and focus. No-one else that I am aware of anywhere has a facility like we have here. With the new Federation Square facility information centre, that will be very closely linked because the Melbourne City Council is running it. It provides the administrative support to the shrine under the legislation. That is a strong link in terms of tourists. But the thing that gets us excited is more the link with the schools. That is our future.

**Mr ROBINSON** — Following on from Mark's last question and touching on the comments you have made about your connections with the City of Melbourne as an example, the legislation that was passed in 1978, I think, and the relatively minor amendment in 1999 that you referred to as well, the terms of reference for this inquiry allow us to look at related legislation, not just the Anzac Day Act itself. That covers the legislation which governs the shrine. Are there any obvious examples in the act which governs the operation of the trustees which are in need of updating? I throw that example up where you have said that the legislation talks about the City of Melbourne providing the administrative support. Presumably that was fine in 1978, but on the verge of a new facility being developed at the shrine, are there suggestions you feel you are able to make to us now that we should have regard to for your own legislation? I do not want to put you on the spot if you need to think about that.

**Mr TAYLOR** — I think we would have to take that on notice. It is something which I think Mark has correctly identified as a very important strategic issue for us right now. Virtually as we speak we are trying to get our ideas together in terms of how we should handle that through government.

**Mr ROBINSON** — I respect the fact you have a minister to deal with. We do not want to cross anyone's lines, but we similarly have terms of reference that allow us to explore these issues.

**Mr TAYLOR** — Off the top of my head, I think it would be impossible for me to say just at the moment what our response would be. I would say that we will be talking to our minister over the next couple of months about what the way forward should be. It could be there are some legislative implications of that, but we have not given it a lot of thought at this stage.

**Mr ROBINSON** — An associated question, if I might, which probably I could ask of our next witness, and I will ask him as well: your act does not refer specifically to Anzac Day. You have told us that there is a mass of activity that goes on across the year, but Anzac Day is the most important for the shrine with the huge number of people that descend on the shrine from early in the morning. Having been along to the last three or four dawn services, I am amazed at how well it all works. It looks like chaos when you arrive because there are people in the dark. I am interested in the administrative situation on the day itself and the legal mix of responsibilities. I am not clear. Your act does not talk about Anzac Day as being distinct from any other day, but we understand that the operation of the dawn service is something the RSL is involved in.

**Mr TAYLOR** — Yes.

**Mr ROBINSON** — In the event that something happens down there, who is responsible for what on the morning? I do not know mean to put that in a way that things do go wrong. It runs magnificently. But it just concerns me with the legal framework, who actually is charge on the morning on that site?

**Mr TAYLOR** — I think I might leave that for the RSL to talk about in a bit more detail in the next presentation. There is a committee, as I am sure you are aware, that oversees Anzac Day. The RSL has the leading role in terms of all the organisation. Our role is as venue manager effectively. Everyone has their job to do. I think the reason it works well is that we are quite clear that our role is related to the venue. The RSL has quite detailed committee structures that we actively participate in. It has evolved over a long period of time.

**Mr ROBINSON** — Can I frame the question this way to give you an indication of the issue: let us say someone breaks their leg on the morning of the march. On the public liability issue, who is responsible if it

happens — and public liability is a big issue at the moment; is it the shrine trustees that cop that or is it the RSL as the people organising it?

**Mr TAYLOR** — I am not sure. It has never been raised. We have public liability insurance. I am sure if it was shown to be our fault, it would be my assumption that we would end up being responsible if it was shown to be through our negligence that it occurred.

**Mr ROBINSON** — It is not something that has arisen in a way which threatens the balance of responsibilities as they are understood at the moment?.

**Mr TAYLOR** — No. In the two years I have been involved, it has never been an issue. There are two issues that you have raised. One is we have not thought about the legislative aspects of Anzac Day and its implications for us as trustees. I think it comes back to the earlier question that Mark asked about us running on the smell of an oily rag. That is very relevant. It is to do with our capacity to manage the shrine as it goes forward. What happens at the moment is that people like myself are doing it in the evenings and in as many hours as you can scramble together during the week. I do not believe that is a sustainable long-term management structure for the shrine.

**Mr BIRRELL** — Following up that theme, what staff does the shrine have?

**Mr TAYLOR** — At the moment there is on the payroll an executive officer who is employed by the City of Melbourne.

**Mr BIRRELL** — At its expense?

**Mr TAYLOR** — At its expense. The City of Melbourne provides administrative support: its payroll group does the payroll, and its accounting group does the accounts. It is more in that area. It is the executive officer, secretary and the internal administrative support. The trustees themselves employ one full-time commissioner and four part-timers — our direct payroll is for five people. If you start to go beyond that, the police provide the shrine guard, the City of Melbourne provides maintenance of all the external grounds, and the Department of Natural Resources and Environment provides the operating budget and the budget for maintenance of the building.

**Mr BIRRELL** — Does Treasury provide a line of funds to you as well?

**Mr TAYLOR** — To be quite specific, Treasury provides the building maintenance funds.

**Mr BIRRELL** — I thought there were two grant streams.

**Mr TAYLOR** — There are two grant streams and we are thinking it may be sensible to try to get one.

**Mr BIRRELL** — I do not think any of this has ever been reviewed.

**Mr TAYLOR** — It would seem to be timely.

**Mr OLEXANDER** — I am very interested in the comments you have made today about education and young people in Victoria being linked into and connected with the Anzac history and the history of our armed forces. You have talked about history and geography and communication of values to young Victorians. You have kind of outlined a vision that you have of the shrine becoming almost a focal point in the state for that sort of contact and education taking place. Can you give the committee a little bit more information about how you envisage you will be developing that education program, what kinds of messages you want to communicate to young people, how you are going to determine what messages are communicated, and how that is done?

**Mr TAYLOR** — I guess as the chairman of trustees I see that sort of leadership role as my major contribution — to work with the fellow trustees and consult a lot of people to do that. Actually how we are going to do it, I think we are going to struggle to do it unless we have the people to do it and a proper management structure. We are trying to run a business at the moment and we do not have the management structure to do it. We have a big development so we have a project manager. We run the day-to-day side of the shrine so we have an administrator, but there is a big gap there in terms of the overall leadership. A part-time chairman might have worked for the past 50 years but it will not work as we go forward. We are going to need a full-time executive director and we need a senior person to run our education programs. Vision is the first thing, management structure is the second.

How we do it in terms of conveying those sorts of messages, the sorts of things we have thought about so far, is through the galleries of remembrance so there are physical things at the shrine which people can come and look at. Not everybody can afford to go to Gallipoli; they cannot go overseas and visit these places, so we want to bring into the shrine the feelings to try to convey the circumstances that might have existed at the time these conflicts took place. That can be done; with technology today we feel that can be done in a very sensible way.

We have plans to develop an education booklet in the same way as they do for the Melbourne Cricket Ground. We believe the MCG's booklet and program are very successful but the opportunity we have is many times bigger. When you think of the shrine, we have the geography side, the history side and the values side. At the really pointy end of what you do, you would be hoping that in the school curriculum there is a booklet there that we would be heavily involved in and that part of the program was not only to fill out the book but to come to the shrine to help them in that experience. It could be an integrated process of which a visit to the shrine would be an important part. It is not just one component. As Dennis said, people can log into the Internet at home but often they need a bit of help and at the shrine we have specific facilities. Not everyone has access to the Internet either, so we will have that at the shrine. I am not sure if I can say much more than that. We have been concentrating so far on the stage 1 development to get that behind us and we have a very broad vision but not one that is nailed down. I think it will take us probably the best part of the next 12 to 18 months to get a clear way forward.

**Mr OLEXANDER** — Do you see that eventually in this process you might need to be bringing together a steering group for the creation of an education program? We have talked to a lot of people. Many of them like the Australian War Memorial have an educative focus. There is a program running there. The Department of Veterans Affairs has produced some very excellent, in my view, education packs for schools, for younger kids and for older kids. There would obviously be resources at the education department in Victoria. Have you thought about how you would coordinate the major stakeholders in that role of focal point for education in the state?

**Mr TAYLOR** — In the position where we are now we are just about to appoint someone to look at it for us. That is our first step. I guess we could jump straight to a steering committee and involve all the relevant players but my preference is initially we do about a three-month exercise to make sure we know who is doing what — —

**Mr OLEXANDER** — And what is out there.

**Mr TAYLOR** — One of the recommendations that would come out of that would be a process. I think it is not something that we would ever see us doing by ourselves. There are a lot of players here and we would see ourselves being a facilitator, coordinator and a focal point.

**Mr OLEXANDER** — Do you at the moment have any formal links with the schools or the education department in Victoria to try to develop some of these issues for education at the shrine?

**Mr TAYLOR** — We already have an education kit that schools use which is focused around the shrine itself. As I say, 300 school groups come to the shrine every year, so there is a program. It is not as if we are building on a zero base — it is just that it is not very professionally run at the moment; it is very ad hoc.

**Mr BIRRELL** — Could you send us one of your kits?

**Mr TAYLOR** — Yes.

**Mr BIRRELL** — That would be great. Do you want to make a formal submission to us?

**Mr TAYLOR** — What sort of timing?

**Mr BIRRELL** — Six weeks.

**Mr TAYLOR** — We could do that. We would appreciate the opportunity if you have the time to give us to do it properly.

**Mr BIRRELL** — I realise the sensitivities. An issue I will raise that I do not want you to comment on at all is that it seems nuts to me that the Minister for Environment and Conservation is responsible for the shrine. That is completely ludicrous — as I felt when I got it and I still feel that way. As conservation minister I was also responsible for Olympic Park so it was equally nuts but, of course, they are all on Crown land. Time might have passed on since then. We are hunting for someone whom we can help encourage to be a repository to take charge of education. It could be the Australian War Memorial — we have not discussed it. It is clearly well positioned for it, although interestingly it has effectively outsourced a lot of its work to the New South Wales education

department because it thinks the department is an excellent body to pull it all together. It was not being parochial either, although I guess being close to Sydney it was an easier decision; I am not sure.

It may well be that some of the trustees might want to make a submission to us. That might be an easier way for us to hear views. I do not know who all the trustees are. I will just leave those thoughts with you and say that we have very open minds. This is a rare opportunity where all this legislation is being looked at laterally and without there being any agenda other than protecting the spirit for the next generation. It is an invitation; I do not expect a response.

**Mr TAYLOR** — We would like to take it up.

**Mr BIRRELL** — Thank you. Any other questions?

**Mr ROBINSON** — You alluded to the patriotic funds and your belief that there is a need to revisit the legislation governing the use of those funds, which we understand is fairly prescriptive. Are your discussions with the minister or ministers about future operating budgets predicated upon an amendment to that legislation? Or is that something you offer as an opinion, which would be in addition to anything you are discussing? Again, if you feel you cannot answer that question because of the discussions you are having at the moment —

**Mr TAYLOR** — No, I am not. I have been very open, I think. I feel comfortable talking about nearly every issue here because our minister has the confidence in what we are doing and we have bipartisan support for what we are doing. As I said earlier, the focus of what we have done so far is to get the development off the ground. We are now looking at the next stage. It will be a combination of government funding and the things we can do ourselves. We are trying to get a balance of self-help and government funding. What that mix is we are still — in fact, we are working on submissions at the moment on that. But we do not feel as though this is all something the government needs to fund direct.

The reason I raised patriotic funds was relevant to — if you start to think about some of the very specific examples that might be around, an association has a choice where it might think about allocating its money. We think a real option for some of these associations — and without naming them — is that there is an opportunity to enshrine the achievements of that group and the sacrifice and service they made in an ongoing way at the shrine. The alternative to that is you might sponsor a hospital wing or something like that, but at the shrine it will be there as part of an integrated education program.

We had one of those groups talking to us recently. My sense is that maybe the patriotic funds legislation can be interpreted to allow them to allocate their money to us. There are opportunities for the Governor in Council to approve that anyway. But the point I am making is that making a specific reference to the Shrine facilitates the whole process. A lot of people, when you say, ‘You have to get Governor in Council approval, and is it a charitable’ — when you start to get involved in interpretation it makes it much more difficult for people to say, ‘Yes, the government has said that this is where it would like the education focus to be. This is an appropriate place for money to be left to’.

**Mr ROBINSON** — So the answer in short is that nothing is being ruled in or out at this stage?

**Mr TAYLOR** — No.

**Mr ROBINSON** — Thank you.

**Mr BIRRELL** — Gentlemen, thank you very much for your submission. We greatly appreciate it and would welcome getting anything in writing in due course. The best person to talk to about that is Mark Brennan.

**Witnesses withdrew.**

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE**

**Anzac Day Subcommittee**

**Review of Anzac Day Laws**

Melbourne – 25 July 2002

Members

Ms E. J. Beattie

Mr A. P. Olexander

Mr M. A. Birrell

Mr A. G. Robinson

Ms M. J. Gillett

Co-Chairs: Ms E. J. Beattie and Mr M. A. Birrell

Staff

Executive Officer: Mr A. Homer

Consultant: Mr M. Brennan

Witness

Brigadier K. Rossi, Returned and Services League of Australia (National).

**Mr BIRRELL** — I welcome back Brigadier Keith Rossi. We are particularly interested in hearing you in your capacity as being nominated to us by the national RSL. We are sorry we are running half an hour late.

**Brig. ROSSI** — It does not matter to me. According to the newspaper advertisement it was 10.00 a.m. until 4.00 p.m.

**Mr BIRRELL** — We will have to stick to the 4.00 p.m. but we did not stick to the 10.00 a.m. Then those members still here might have a brief discussion about our next meetings, et cetera.

Keith, for your knowledge we have received a number of written submissions, a number of which have been from RSL sub-branches, which has been very encouraging. In fact, we have received more submissions than we can remember on many inquiries. So far there are about 35 in total, so that is not a bad start.

**Brig. ROSSI** — The advice of the review and the discussion paper was sent to MPs all over the country and all over the state. Most of them went to their local sub-branch and said, ‘Do you want to make a submission?’. You have seen the outcome of it. To those who came to us we said, ‘For goodness sake, do make a submission because we are in the city and our perspective is mostly of Anzac Day as it is in Melbourne; it could be quite different out in the bush. We never go there, because our duties keep us in Melbourne on that important day.

**Mr BIRRELL** — Yes.

**Brig. ROSSI** — Thank you for going all over the commonwealth; it is marvellous. You expressed the hope that the state legislation would be a model. Of course by involving the presidents of the RSLs in the other states you have set the scene for an acceptance in other states. It is fairly important that we have some degree of uniformity throughout the commonwealth.

**Mr BIRRELL** — I would be interested in anything you initially may want to say to us. But then I will have a few questions, and I know others will. We have the written submissions.

**Brig. ROSSI** — Basically we are most anxious in all states that the Anzac Day morning — up until 1.00 p.m. on Anzac Day — be devoted to commemoration, and what happens after 1.00 p.m. in Victoria we believe is a celebration in sport. We would not like legislation to interfere with the way the various ex-service organisations, mainly the RSL, conduct the commemorative activities, but we would like legislation to set the scene where people’s attention is focused on them. Hence our wish that you legislate around shop trading and opening, and closing the factories on that day. That is dealt with in the submissions, both from national and state. There is no need for me to repeat it because it is there in writing.

We are very keen on the education of children, because as we die out — and in the view of most of us there will never be another war that will involve over a million Australians in uniform as the Second World War did — there will not be a huge body of veterans to keep the Anzac legend going. We want to preserve it, because it is a sort of linchpin in Australia, a linchpin to our culture. We would like it to be our legacy, and I am sure my father would have liked it to have been his, and the Anzac legend, as we understand it, loaded as it is with myths and so on, is still a great legend.

We would like the children of Australia, wherever they were born — they are Australians now — to live to that legend, because it is a good one. If it is embedded in our culture, we will have better citizens because of it. If you can legislate to facilitate that, that is wonderful and it is educational. We would not like you, however, to prescribe how many children or what classes of children should be allowed in Anzac Day marches. That is something the veterans themselves will decide and will evolve over time. But we would like some legislative help in creating funds to support an education program. Kids in the marches is a wonderful way to support it, and while at present we restrict it to children of veterans, under certain circumstances in every state they let a few children in — more in some states than others — under various rules. It does not matter really, because the rules are evolving and as the veterans are moving out the kids are moving in.

We do not need legislation to do that; it is a natural thing that will happen. At a recent vote I took of veterans in Victoria there was only one person who supported children of the enemy being in the march. The veterans present at the meeting — and I am talking about well over 100 representatives of those at the Anzac Day march — voted, with one exception, to keep enemy children out. That is, at this stage — they recognise it is changing. Nonetheless, when I asked whether they had a different view on Remembrance Day than for Anzac Day they would not vote on it. That leads me to believe they have a slightly different view on Remembrance Day. Anzac Day involves

Australia and New Zealand; Remembrance Day is becoming pretty multinational around the world and that trend will develop here. I have no fears about that, and it does not need any legislative support.

I think one country insists on 60 minutes' teaching on war commemoration once a year. I do not know whether that sort of thing is required in Australia as distinct from encouragement. I would rather have encouragement than legislation saying children have to be given a 60 minute talk on the Anzac legend every year. I would hope every child was subjected or exposed to it, but legislating for it is against my personal way of going about things.

The previous witness, Mr Taylor, talked about the shrine. I have very strong views about the shrine, but that is something else. It is not specifically about Anzac Day, but it is about preserving the legend and education. I see dozens of buses come to the shrine every day — it is one of our greatest tourist attractions — but I have yet to see a tour guide who knows anything about the shrine and what it is about. That could never happen overseas: you cannot be a tour guide unless you have passed government examinations. The bus driver leads the tour into the shrine, takes them up to the balcony and shows them a wonderful view of Melbourne from the balcony. There is more to the shrine than that.

My eyes were opened some years ago when an architect employed by the Department of Defence got onto me and told me he had been asked to develop a plan to upgrade Victoria Barracks. He was a heritage architect and he did what he had to do: you would have seen it down there at A block and the war room. He said, 'I dream of a commemorative precinct — the old Victoria Barracks, the shrine and next door, the old repatriation building', which I think is standing empty. I think it has a heritage classification too. It was created years ago as an excision from Victoria Barracks to treat soldiers, mainly World War I soldiers, and it was diverted to other uses 30 or 40 years ago.

We were very supportive of this because we want space to put our RSL memorabilia. But the defence department knocked it on the head. I would like, perhaps with state government support, to revive it and develop a precinct, not only to bring in tourist dollars but because it is a good thing. The attitude of the war memorial is good, particularly with the current director, General Steve Gower. He recognises that it costs most Australians a fortune to go to Canberra to see the memorial and he does have exhibitions travelling around the states; but they have enough stuff to fill three or four war memorials, and I would like see some of it put into the shrine and the old repatriation building as part of a war memorabilia display.

I turn now to insurance. If as a preliminary to a service at the shrine you march through the city you cannot do it without pretty expensive public liability cover. The City of Melbourne does not allow it. I think it is \$10 million is the minimum coverage. The RSL has a public liability policy of \$20 million. Of course we have to show that to the City of Melbourne every year before we are allowed to have the Anzac march. The policy protects everyone the marchers and the bystanders.

A little side issue is that with descendants in the march there are more people likely to have problems, with increased liability for claims for damages, but they are covered by our insurance. If there are too many claims the premiums will rise. Sub-branches of fewer than 50 members are covered by our \$20 million policy — it is a group policy. Larger sub-branches have to look after themselves, but if they do not have the funds to look after themselves there is a let-out clause and we cover them too and pay the premium for them. So if there is RSL involvement in Anzac services the participants and the bystanders are covered. The shrine has a policy of its own. I think it is your state government policy.

**Mr BIRRELL** — Yes.

**Brig. ROSSI** — A non-RSL organisation sent a letter inquiring about insurance cover and the shrine — I have a copy of the letter — was not at all sure but said, 'In the first instance send the claim to us'. I thought that an unwise thing to say!

**Mr ROBINSON** — You would do that only once, wouldn't you?

**Brig. ROSSI** — Yes.

**Mr BIRRELL** — Thank you very much and thank you for your interest in coming along earlier, too. In the letter the committee received from the national RSL nominating you as its spokesman there was the very refreshing statement that it saw this as an opportunity to get common legislation between all the states. I really welcome that. Can you expand on that a bit: what type of discussion led to that and what the feeling is of the national RSL about having uniform multistate legislation?

**Brig. ROSSI** — Over the years there have been problems. The population is far more mobile than it was and we have a fairly big regular army, navy and air force nowadays. And under their posting policies they are exposed to Anzac services in all states. They will come to Victoria and complain that we do not do something that is done in Queensland; they will go to Queensland and complain that they do not do something that is done in Victoria. These sorts of rumbles have been going on for 20 or 30 years because there is no great uniformity in the way we do things. Bruce Ruxton, because of his high profile — most people thought he was the national president, I think — used to get complaints from other states about factories and shops opening on Anzac Day. Bruce would send off a rocket from Melbourne to Perth or somewhere and get a letter back saying, ‘We’re allowed to open on Anzac Day’.

All of this led our national president, who is a pretty forward thinking sort of bloke — he is very thoughtful and very interested in the future of Anzac Day — to ask whether the RSL could push nationally for some sort of discussion to get national agreement. The government was so interested that it offered to fund it. Then it got out to the press, who mishandled it, and there were things like ‘Phillips is trying to turn Anzac Day into Australia Day’ and all this sort of business, and it caused so much trouble that they had to abandon the inquiry. That was of great disappointment to the president and to me because I made a submission, of which you probably have a copy, based on a plebiscite of members which I did of the units that march in Melbourne on Anzac Day. Anyway, when your thing came along I rang Peter Phillips and said, ‘We are afloat again. The state government is going to look into Anzac Day and it will invite national participation’, and he was most interested. So here we are.

**Mr BIRRELL** — Peter Phillips lives in Sydney, does he?

**Brig. ROSSI** — No, he is a Canberra resident. He was born at Wallaroo on the York Peninsula so he is a South Australian by birth, but as a permanent soldier and apart from his tours of duty in Malaysia and Vietnam and wherever they sent professional soldiers he spent a lot of time in Canberra in senior appointments.

**Mr BIRRELL** — Is it your feeling that the broad views being put forward by the Victorian RSL on the structure of legislation would be the ones generally held by the other state divisions?

**Brig. ROSSI** — Yes, you can see it in the national submission, and I did not object to it although I would not agree with all of it; it was not my submission, it was a joint submission by the state presidents; it came from the national executive. I merely commented on it. Peter is a committed Christian and you could see that flowing through. But Victoria is very much in favour of minimising the religious content. That is because of bitter experience in the old days when the various religious leaders used to fight for a bigger share in the service and we would have to placate them; we added more prayers, and so on.

**Mr BIRRELL** — Do other states have more religious services than us?

**Brig. ROSSI** — Some have a few more prayers and hymns. Ours is minimal. We try to choose hymns that are acceptable to Jews and not just Christians. You can put ‘God’ in as much as you like but you have to be a bit careful about putting ‘Jesus Christ’ into hymns. We are multicultural. Plenty of World War II soldiers are Jews and Muslims and so on, and it is just so that they feel comfortable.

**Mr BIRRELL** — In other respects there would be this sense of broad unity around those submissions?

**Brig. ROSSI** — Yes.

**Mr BIRRELL** — That is encouraging.

**Brig. ROSSI** — I read the Victorian one and I was instructed not to deviate from it. That is all right. I will deviate; I will table the appendix they forgot to send.

**Mr BIRRELL** — Yes, you might want to do that now. We will break soon and we will have coffee with you as well, Keith, because that is an important point. This document was not attached to the submission we received from the Victorian RSL, so we might photocopy it if one is somewhere around here.

**Brig. ROSSI** — I brought seven copies.

**Mr BIRRELL** — This is even better. This is the suggested — —

**Brig. ROSSI** — It is the appendix. They are attached.

**Mr BIRRELL** — This is the suggested new list of exempt shops.

**Brig. ROSSI** — Then I modified it because it was written negatively, and I changed it to the shops that should be allowed to open.

**Mr BIRRELL** — Yes, which is the flip side of it. I think your latter one is perhaps the more practical way for us to look at it.

**Brig. ROSSI** — That is how we expressed it once before. Our lawyer did the latest one. The lawyers do things backwards.

**Mr ROBINSON** — Can I throw a hypothetical at Keith on this issue, Mark?

**Mr BIRRELL** — Yes.

**Mr ROBINSON** — The issue as to who should and should not be allowed to open is always going to come down to a philosophical argument about a particular business. If, hypothetically, a system was imposed where the current list of retailers were to continue to be allowed to trade in exchange for a fee which would be directed towards an appropriate fund, do you think that would change the RSL's position? We have been talking here this afternoon about revenue stream for the shrine.

**Brig. ROSSI** — It would not in principle — I do not think it would with our current president, because he is a professional soldier. Had he come from the ranks of traders he might have a different view; money adds a different value to things. The principle is we want it to be a closed holiday until 1 pm.

**Mr ROBINSON** — We heard from the shop distributors association (SDA) earlier today that it in fact wants it restricted; it wants it closed all day, not just to 1 o'clock. I am trying in my own mind to explore what the give and take on this particular point is. I think it is fair to say that as a committee we want to look at aspects of Anzac Day well beyond just who is and is not on a list. That is important, but we could end up tying ourselves in knots trying to get that list perfect and to have everyone satisfied with it.

**Brig. ROSSI** — If there are no time lines or target dates on the legislation, might I suggest you float a minimum case — our case and the SDA case in a bill or a second discussion paper — and let the retailers come back and fight? Then we will compromise — have a little committee — and we will yield here and there, I suppose. Some have very little justification, and some can make a case. We have reduced it to suit modern living; people eat out and they need petrol and they need wreathes, so food, petrol, wreathes and undertakers, because you have undertakers as shops.

**Mr BIRRELL** — That is another issue, isn't it — whether this list is just out of date because they are in fact not shops? On face value I agree with most of your list. I have a query as to whether hairdressers are even shops.

**Brig. ROSSI** — They usually are in shops. Petrol stations are shops because they retail. Hairdressers do not retail, do they? It is a service.

**Mr BIRRELL** — It is a service. That is what I mean. Architects are in shops, too, but they are not shops. What about hardware — for example, you have a burst pipe or something, you go down to the hardware store to get — —

**Brig. ROSSI** — You would call a plumber. Emergency services must continue to operate.

**Mr BIRRELL** — I have not got much of a debate about it. I cannot understand some of these old ones, anyway.

**Brig. ROSSI** — But we can cut it out and let the plumbers come along and fight their case. How has this list gotten longer and longer? People go to their local member who develops a plausible case and it does not seem terribly important at the time.

**Mr BIRRELL** — It probably has not grown since the late 1970s — perhaps the early 1980s.

**Brig. ROSSI** — I think you told us that in the letter. It is probably in that file, that it is getting shorter and shorter — I do know that. I went to a different school; one and one make two, not three.

**Mr BIRRELL** — Mark, do you know when was the last time the list was altered?

**Mr BRENNAN** — Probably in 1987, under the Shop Trading Act.

**Mr BIRRELL** — It is something for us to have a look at. I suspect we may have some common cause with the Shop, Distributive and Allied Employees Union on much of this, if we took them out.

**Brig. ROSSI** — Is it fair to minimise and let the traders come back and justify their position again? It takes time, of course.

**Mr BIRRELL** — I do not think shoe repair shops and swimming pools are going to cause trouble. It will be a debate we will need to go through. Is there anything else you particularly want to say at the moment? I know we will want to come back to you with a bit of a reality check on a lot of the things we are doing.

**Brig. ROSSI** — In the discussion paper and in the national and state RSL papers there is no mention of markets. They have given us a lot of trouble in recent years. There are two classes of market. One is what you might call the Paddy's markets, which operate on Saturdays and Sundays or public holidays, where the problem is the multi-trade — I suppose I would call them — shops in a market and some are exempt and some are not. Then you get the proper markets, like South Melbourne, Preston and Victoria market, where you have all the shops — or almost all of them — on schedule one represented in the markets and some close, some do not. Perhaps six years ago we had cause to come to the government, and Jeff Kennett sent out a warning — I think to municipalities because municipalities have some rights, not to alter exempt shops, but non-exempt shops can be told they can open, or something. He warned them that he would legislate if they did not do the right thing.

The problem is still there. Last Anzac Day I got a complaint about a butcher in the main street in Oakleigh. I rang the butcher and said, 'You shouldn't be opening' and he said, 'I'll ring the boss'. He rang the boss and the boss rang me back and said, 'I've got to open because the butchers in the market are opening'. I rang the butcher in the market and he said, 'Well, all the other shops in the market are opening, why can't I?'. Of course, the fellow in the high street naturally opened. So all the butchers in Oakleigh threatened to open. I do not know whether they did. I was writing letters to you at the time.

**Mr BIRRELL** — I think because of the ruckus they did not, but it was only because it was raised as an issue. It is a bit like the point Tony was raising before about where there are actual complaints, and what occurs. They did not open because you raised it with them.

**Brig. ROSSI** — You can see their perspective.

**Mr BIRRELL** — Yes, you can. I think the reason markets are not covered is that a market is not a shop. That is why we wrote to local government asking them not to authorise the market to open on a weekend.

**Brig. ROSSI** — It did happen that Anzac Day fell on a Saturday or Sunday.

**Mr BIRRELL** — Yes. Is it your suggestion that there be some power to potentially control the operation of markets on the morning of Anzac Day?

**Brig. ROSSI** — It is a sort of reserve power. I know nothing about legislation.

**Mr BIRRELL** — There is no power now.

**Brig. ROSSI** — You can see the inequity of allowing shops in a market to open but not next door in the main street.

**Mr BIRRELL** — Yes, particularly a direct competitor.

**Brig. ROSSI** — We have trouble with sport. The RSL is keen for kids to play sport. When Little Aths want to play on Anzac afternoon, when it falls on a Saturday, we have a problem. We have to get onto the gentleman over at Youth, Sport and Recreation and say, 'We want a bit of a blind eye turned here'. We do not want to be taking money from Little Aths because they want to play sport on Anzac afternoon, but how do you have that in legislation? If one of our RSLs wants to serve rum and milk after the dawn service they have to pay \$300 for a licence. I will not say who, but a person in authority said, 'Oh, just keep going the way you are'. That is all right if the people who look after licensing matters, who are the police, are prepared to turn a blind eye — and many of

them are Vietnam veterans and they do. But we had trouble in Mildura this year — a local cop moved in. It is safer if it can be covered with legislation, like two-up is gaming that is allowed to persist on Anzac Day.

**Mr ROBINSON** — Is part of the problem that a number of permits and authorisations for different activities on Anzac Day are issued by different ministers and different authorities and it is not one central person dispensing them?

**Brig. ROSSI** — If you put it all in the Anzac Day act it is one minister.

**Mr ROBINSON** — That is my thinking — that the anomalies grow as the division of responsibilities grows. Ideally, perhaps what is required is that one minister, maybe the Premier or the Premier's office, has responsibility for how Anzac Day is administered and what is allowed or not allowed and there is a commonsense discretion built in, so of course you are not going to force Little Aths to pay hundreds of dollars when it falls on a Saturday, and every seven years there has to be a discretion.

**Brig. ROSSI** — If it is in the country, the local RSL bargains about how much they should pay and we say, 'Nothing', and that is all right. If it is within 30 kilometres, the law is the law and we have to say, 'Turn a blind eye' — we do not want to charge them.

**Mr ROBINSON** — One further question, which goes to the dawn service. I have been going along for the past few years, as you know. The problems that confront the RSL in staging the march are all good problems, because you have more and more people wanting to be involved — which is far better than no-one wanting to be involved. I am wondering how big it can possibly grow at the shrine. It seems to me, with the variable weather and whatever, that it is just getting very difficult to manage large numbers of people early in the morning, with the parking and the access in and out. You have been marshalling that particular event for some time, so you have had great experience. It would seem to me that if we are encouraging more and more people to be involved then over the next few years we are also going to need to be encouraging some more resources in managing that because it is a heck of a job.

**Brig. ROSSI** — I do not know whether it is a matter for this act, but I did mean to mention that some friendly intervention by the government, or consultation between the City of Melbourne, the other side of St Kilda Road — Port Phillip — and the government and the RSL needs to take place, perhaps leading to whoever owns the parking under the Victorian Arts Centre — I think it is the arts centre — having free parking on Anzac morning until 10 a.m. or something for people going to the dawn service.

Two years ago the Melbourne City Council complained about the east carriageway on St Kilda Road from Anzac Avenue to Domain Road being jampacked with cars: they were on the footpath, on the nature strip and right across the road. They were going to stop that by putting barriers across it. I said, 'Don't you dare — declare it is a parking area'. But the buggers put barriers across it — so that there was not even kerbside parking. They went in the opposite direction. It has got to the stage where people are driving across the kerb — damaging their cars in some cases, because there are rough bluestone rocks in some parts around the boundary of the shrine reserve — and having to park on the lawn. We have to do something about it. The RSL is powerless, really.

**Ms GILLETT** — You are, but we can manage to get cars parked for the grand prix.

**Brig. ROSSI** — If we can get some recognition at both levels of government that there is a public problem, we should try to move by talking to the casino or the arts centre about providing parking facilities. If it is at the casino, we would probably have to extend your bus service to ferrying people up to the shrine.

**Mr ROBINSON** — Your position is that you believe the management arrangements in place for the dawn service, and the movement of people to and from, need to be reviewed if it is to be sustainable and grow as an event?

**Brig. ROSSI** — How can you stop it from growing? You are providing Batchelor buses to bring more and more people in, and we want you to provide more buses. It is a great service, but the shrine may have to extend its public address system, a wired system with speakers further down the lawns. These are peripheral things but nevertheless important.

**Mr ROBINSON** — When we had the 37 buses there this year on a wet morning they were going up Birdwood Avenue and from out of the dark people were crossing the roads as individuals or in groups, and you wonder how long it will be before somebody gets skittled.

**Brig. ROSSI** — This year I was running late and as I was coming at a quarter to six down Birdwood Avenue from the South Yarra end I was almost knocking people down. They had no hope of reaching the shrine before the dawn service started. They were still up at Park Street, Toorak, but we do not want to stop them coming. Maybe we have to do something on the south side of the shrine to accommodate the crowd there as well. We are already paying an extra \$1000 to have speakers on that side of the shrine so people on the south side can hear what is going on.

**Mr ROBINSON** — The marshalling done on the morning for the pre-dawn service is all done by volunteers, is it not, by the corps of commissioners?

**Brig. ROSSI** — We just say come.

**Mr ROBINSON** — There is the question of a little traffic control on Domain Road.

**Brig. ROSSI** — The barriers stop people getting into Birdwood Avenue. Melbourne City Council traffic officers, a few police to give legal backing, and military police, also volunteers from the Defence Force staff these traffic control barriers.

**Mr ROBINSON** — It is a glorious mixed bag of people you manage to get organised in the morning.

**Brig. ROSSI** — It costs the police a lot of money. They are increasingly reluctant, the whole world is becoming tougher. We had to pay for a lot of crowd control barriers this year because the police insisted — to reduce the risk of damage or injury. They were frightened by the 11 September insurance business, I suppose. In the event the barriers were more of a hazard than having no barriers, but that was the police reaction. There has been a gradual replacement of police by ADF cadets for the last 10 years as the police force has come under more stress. When you do something that appears simple, like starting a football game after the march, the implications are enormous. The police have to redeploy from one major event to another. Many have to clear out of the march before it ends to start handling the people moving to the Melbourne Cricket Ground. You do not realise it when you take these actions — for example, the light horsemen are on police horses and the police want their horses earlier. You do not think about it at the time, but it happens.

**Mr BIRRELL** — Thank you. We greatly appreciate your work. We will come back to you for a reality check on your ideas, if that is all right.

**Brig. ROSSI** — I am flattered. Thank you for listening to me.

**Committee adjourned.**