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FINANCIAL SERVICES

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SENATE
SELECT COMMITTEE ON SUPERANNUATION AND FINANCIAL SERVICES

Wednesday, 11 July 2001

Members: Senator Watson (*Chair*), Senator Sherry (*Deputy Chair*), Senators Allison, Chapman, Conroy, Hogg and Lightfoot

Senators in attendance: Senators Hogg, Sherry and Watson

Terms of reference for the inquiry:

Parliamentary (Choice of Superannuation) Bill 2001

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Committee met at 8.31 a.m.

CHAIR—I declare open this public hearing of the Senate Select Committee on Superannuation and Financial Services. This is a public hearing into the provisions of the Parliamentary (Choice of Superannuation) Bill 2001. The bill, which is a private member's bill, intends to amend the Parliamentary Contributory Superannuation Act 1948 to give senators and members of the House of Representatives the freedom to opt out of the compulsory parliamentary superannuation scheme.

The committee has received more than 2,500 submissions, including over 800 standard form submissions, 35 petitions with nearly 1,500 signatures, as well as over 600 emails and other items of correspondence in relation to the bill. Although a few associations made submissions, the vast majority of material received was from individuals.

The aim of today's hearing is to take evidence from the proponent of the bill, Mr Peter Andren MP, as well as from government officials, industry associations and some individuals from the various states and the ACT who made submissions on the bill. I should point out that the Australian Taxpayers Association was invited to appear, but declined to do so after hearing of the amendment that passed through the parliament. In this vein, it should be noted that the parliament has passed legislation to provide for the payment of parliamentary pensions to be deferred until age 55. That is the pension component. In terms of the lump sum, the preserved amount will be preserved in the same way as other lump sum payments.

All of the witnesses who appear before the committee are protected by parliamentary privilege with respect to the evidence given before the committee. This means that they are given broad protection from action arising from what they say, and that the Senate has the power to protect them from any action that disadvantages them on account of the evidence given before the committee.

[8.33 a.m.]

HODGE, Mr Robert, Senior Policy Adviser (Tax), Association of Superannuation Funds of Australia

SMITH, Ms Philippa Judith, Chief Executive Officer, Association of Superannuation Funds of Australia

CHAIR—Welcome. The committee prefers to conduct its hearings in public. However, if there are any matters that you wish to discuss with the committee in private, the committee will consider your request. Would you like to make an opening statement?

Ms Smith—Thank you. The committee has received our letter. As we said, giving parliamentarians the option to opt out of the generous scheme, which is the issue before the committee, would not really solve the issue as we see it, which is overcoming the difference between politicians' super and the super that is there for the rest of the community. It is likely that, were the legislation passed in its current form, few politicians would choose to leave their current scheme.

We support an appropriate, and indeed a good, remuneration package for politicians. The issue that we have is the superannuation component of it: if it is being used as part of that remuneration package, it is out of kilter with the rest of the community. To our mind, it goes to issues of transparency and credibility with the community. We see the package as needing to reflect the level of responsibility but, above all, to be transparent. We believe that the rules around the superannuation benefits should reflect what is deemed to be appropriate for the rest of the community. I guess we see that as going to issues of public confidence in the superannuation system as a whole. I think the fact that there are differences has created concerns about possible reasons why politicians do not react as quickly on some of the other concerns people have about superannuation issues. In terms of the amendments that have been announced—

CHAIR—Passed.

Ms Smith—Yes, passed. One of those amendments was that the parliamentary pension should be preserved for new politicians, as I understand it, aged 55. The preservation rules obviously showed a discrepancy from those of the general population. Although we do note that in the general population, if a person has left the workforce, there are provisions for them to be able draw down some of their pension, but in truth the amount of money that they would be drawing down would be very little. I suppose the question there goes to the fact that it only applies to new parliamentarians, not all parliamentarians. We are still left with an anomaly there. Indeed, we are left with two different salary packages for different groups of parliamentarians, according to which year they started. So really we see that as not entirely solving the problem or solving the issues as we see them. I will leave it there. We have outlined some of the issues, and it is a fairly simple proposition that we are putting forward.

CHAIR—I think perhaps we must read your letter in light of its date, 22 May.

Ms Smith—Yes.

CHAIR—Of course that preceded the amendments which made very significant changes to the superannuation arrangements for new members entering the parliament.

Ms Smith—That is right. Indeed, there were a couple of points we raised in our letter about anomalies in terms of—

Senator SHERRY—the over 55s.

Ms Smith—the over 55s, which were satisfactorily addressed in the 2001 budget. The point I was making about the changes to preservation for the new politicians aged 55 is that, obviously, the differential in preservation age is one of the issues that we were raising. The issue that I was raising, though, is that this is only for the new politicians. In essence, it creates two different salary packages: one for new politicians and one for old politicians. We believe that an independent tribunal should look at the salary package overall and come up with a transparent package. It may be that one scheme has to be closed down and a new scheme started up again but with the remuneration packages, or the base of the remuneration package, being adjusted if necessary to reflect the fact that some of the superannuation arrangements have been changed.

CHAIR—You indicate that you feel that it is perhaps somewhat out of step with the community, and you are virtually advocating something like an eight per cent contribution, aren't you? If you go down that line, what are you recommending for the judges? We have a judges arrangement, are you suggesting that they too should be moved in similar fashion?

Ms Smith—I think the politicians are coming under more scrutiny in terms of transparency than judges. I have not really put my mind to what should happen in the judges' case.

CHAIR—We are asking you to put your mind it.

Ms Smith—I do not necessarily see the politicians' remuneration package being linked with judges'.

CHAIR—It sounds silly, but it is similar, isn't it? Both groups of people have certain important responsibilities in society.

Ms Smith—You could say that about a lot of statutory positions, I suppose. There are a range of other statutory positions which are independent and have to have high credibility within the community. The issue about the politicians' superannuation arrangements—and we hear this a lot from people contacting us in the office—is that there are irritations about the superannuation policy generally that the public has to live by. What comes up again and again is that the politicians set the rules for that particular policy.

CHAIR—Judges also set or interpret the rules.

Ms Smith—That is true.

Senator SHERRY—If we are arguing the issue of a community standard SIGNIFICANT, eight per cent—

CHAIR—As a minimum.

Senator SHERRY—Yes, I was getting to that point. If we argue that that is community standard as a minimum and certainly, from my knowledge, the vast majority of Australians would only enjoy eight per cent, shouldn't anyone who receives a departure from the community standard be required to justify that contribution level over and above what is seen as the community standard? I am talking about not just politicians but judges, public servants, military personnel and corporate high-flyers, many of whom receive massive superannuation contributions paid by their employer.

Ms Smith—I suppose if they were in public positions, it would relate to a question of transparency.

CHAIR—It is a question of equity.

Senator SHERRY—Not just public positions. The company subsidises, because employer contributions for corporate high-flyers are tax deductible. If we are going to deal with the issue of equity and departures from the community standard, which is eight per cent going to nine per cent, why should other groups in the community—if people want to have a go at politicians, that is par for the course; we are public figures, and we have to accept that at times—have their superannuation subsidised, either directly or indirectly by the general taxpayer? Why should any group have it subsidised in excess of SG?

Ms Smith—As an association we are obviously pointing to the fact that, if you want a decent superannuation retirement income, more than eight or indeed nine per cent—

Senator SHERRY—That is another issue. I do not disagree with you that the super contribution should be higher but at the moment the established community standard is eight per cent going to nine per cent. Why should the taxpayer, directly or indirectly, subsidise anyone—politicians, military personnel, industry high-flyers, public servants—who receives a benefit in excess of that community standard?

Ms Smith—Going to the question of standards first, what is the standard? From what we have been able to ascertain, and if you look at the apparent subsidies using the Commonwealth Actuary's subsidies—it goes more to the transparency of the politicians' salary arrangements—a number of people in the community are putting in more than eight or nine per cent, particularly perhaps in some corporate packages, to the extent of 11 per cent or arrangements like that. The difference in the parliamentary super arrangements is that it is an unfunded scheme—it is not an accumulation scheme.

Senator SHERRY—Are you arguing against defined benefit funds?

Ms Smith—No, I am raising the anomalies in the particular parliamentary scheme where, after the eight years, from the commentary that I have been able to see, the taxpayers' subsidy is greatest for some of the younger members of the scheme as opposed to the older ones. Anomalies are inherent in the scheme. The Commonwealth Actuary is saying that, over and above the 11 per cent contributions that are being put in by individual members, there is a 70 per cent or thereabouts taxpayer subsidy. As I understand his figures, that subsidy is greater for

younger members, and some of that may have been addressed by the preservation rule, if that were put evenly across all politicians, but it is not, it is only for new politicians. It is a combination of factors: the 11 per cent contributions by politicians, the taxpayers' subsidy because it is unfunded, and the differentials that happen in terms of the worth of that scheme according to how long they have been in the parliamentary arrangements. The transparency of it is not clear to anyone.

Senator SHERRY—You have not answered my question. You are putting to me that the community standard is eight per cent, going to nine per cent. I repeat the question: why should anyone in the community receive a subsidy paid for directly or indirectly by the taxpayer in excess of their SG—not just politicians, but all the other groups as well?

Ms Smith—Because it is deemed to be good public policy that we encourage people to save and to become more self-reliant in retirement.

Senator SHERRY—But why should certain groups in society—generally higher income earners—be subsidised directly or indirectly by the Australian taxpayer? What is so special about public servants in general versus people who work for private employers? What is so special about corporate high-flyers? You talk about transparency, but we often do not know the arrangements, although we have a fair idea of some of them. Why should select groups in society, particularly with the aging population—I know that you are aware of the implications of that—receive a subsidy over and above the community standard?

Ms Smith—My only answer is that that is why we are sitting here. We say that there should be a level of coherence in terms of the frame. The government has set a frame in terms of RBLs and other arrangements as to the level, age limits and those sorts of things in terms of putting some parameters around the degree to which there will be concessions or otherwise.

Mr Hodge—Over a number of years the superannuation arrangements for Australians have changed considerably. If we go back, say, 40 years, generous tax concessions were given for making superannuation contributions. The parliament of the day saw fit not to tax the benefits coming out of those schemes. In subsequent parliaments, this system has changed. Contributions going into schemes now attract a contributions tax at 15 per cent, whereas in the past this did not occur. We moved on to taxing the earnings of funds at 15 per cent. The parliament then saw fit to try and extend superannuation benefits to the broader community rather than just to those few who had generous employers, particularly those in the public service. For many in the public service, it was always considered that there was a trade-off—that they received lower salaries than they would if they were in private enterprise, and part of this trade-off was because they were entitled, as part of their remuneration, to a superannuation benefit.

When the Labor government introduced a super guarantee—it was phased in, starting at two per cent and three per cent, and it will go up to nine per cent from 1 July 2002—it also recognised that this, in itself, was insufficient and therefore it proposed the co-contribution, which would see employees paying three per cent, the federal government matching that dollar for dollar for an equivalent three per cent, and employers contributing nine per cent, to make a maximum of 15 per cent. So there is a whole series of arrangements whereby the government of

the day has seen fit, through their policy direction, to encourage people, through the taxation system, to provide for their own—

Senator SHERRY—It is a bit more than that, isn't it? I know the history and we are wasting a lot of time on this. SG is compulsory. It is not encouraged by tax incentives. We are talking about compulsory community standards that are applied by statute. We know what the SG is. I will put to you what I put to Ms Smith: why should anyone in society—and they are generally high income earners—receive a benefit, either directly or indirectly subsidised by the taxpayer, which is higher than the superannuation guarantee? I will go one step further than the point I posed to Ms Smith: surely, if people in the community are to receive a benefit that is in excess of the community standard, it should be determined by some sort of independent tribunal, which is, I would argue, what should occur with politicians, or anyone for that matter? There should be good reasons advanced and it should be adjudicated by an independent tribunal.

Mr Hodge—Through age based contribution limits in the taxation system, the government has restricted the maximum contribution that can be made into a superannuation scheme and receive benefits.

Senator SHERRY—I know that. We are talking here about who pays.

Ms Smith—But the government, by setting those parameters, has also set the parameters as to the amount of tax concession that is possible.

Senator SHERRY—That is right. I am aware of the RBL limits. But in many cases it is not the individual who pays out of their own remuneration, it is the employer who pays and, therefore, this is indirectly subsidised by the taxpayer.

Mr Hodge—In the general economy, every benefit, be it salary, fringe benefits or superannuation, which is received by a person who is employed by a corporation, is paid by consumers who are taxpayers.

Senator SHERRY—Yes, that is right.

Mr Hodge—For every tax deduction which is given to a corporation for a superannuation contribution which they have made, that is subsidised by the taxpayers.

Senator SHERRY—And why should it be? Why should corporate high flyers get superannuation benefits, paid indirectly by the community through a tax transfer, in excess of SG? Why should anyone?

Mr Hodge—It has always been conceded that the SG is not sufficient. Someone who is on the SG for their entire working life, on average weekly earnings, will more than likely end up drawing down a government pension.

Senator SHERRY—I accept that—whatever the SG is set at. Let us say the SG was 15 per cent, although that is not the case at the moment—under the law it is set at nine per cent. I will put it to you again, and I do not think you are having any problem understanding the question. I will put it to you for the sixth time: why should anyone in the community receive a benefit in

excess of SG, either directly or indirectly, paid for by the taxpayer? I have gone one step further and suggested to you that if anyone in the community is to receive a benefit over and above SG, then it should be determined by an independent tribunal. There may be a case for certain categories.

Mr Hodge—It could very well be, but the rules of the day are set by the parliament. It is the taxation laws which permit it. As the parliament is elected by the people it has—

Senator SHERRY—You are coming along here giving us your view—and you are perfectly entitled to do that with respect to politicians—and you are highlighting the departure from the community standard. I have no problems with you doing that but I have asked you about this issue of community standard six or seven times now. If you do not want to answer the question then just tell me.

Ms Smith— Frankly, I think we have answered the question.

Senator SHERRY—No, you haven't.

Ms Smith—We have talked about the community standards and the fact that politicians' salary, largely through the taxpayer subsidy, is way out of accord with other people's. In response to your question, 'Why should there be subsidies to anyone?' we are saying that the subsidies and the amount of subsidies are constrained by the public policies that are put around them at this point. The importance of encouraging people to save more has, I would have thought, been espoused by you on many occasions. We are not saying that the superannuation package should not be there but that the transparency of the package is very difficult at this point.

Senator SHERRY—I would have thought, in terms of transparency, politicians' entitlements are the best of any form of employee in the community.

CHAIR—The media have made sure of that!

Senator SHERRY—I do not think the public are aware, for example, of the level of effective taxpayer contribution for the military or for general public servants, and they are certainly not aware of the general level of taxpayer subsidy to a significant number of high-flyers in the corporate sector. In terms of transparency, I would have thought we are on pretty strong ground.

Ms Smith—Perhaps! Although, we tried to get the rules, and I have to say we found it somewhat difficult to get them.

CHAIR—We have got a time constraint but if you are advocating that parliamentarians salaries, in terms of the contribution that should come from the taxpayer or government, should be approximately eight per cent—towards the community norm—I put it to you that, in terms of fairness and equity, that would have to spread across the whole whole community, including your corporate high-flyers.

Ms Smith—You are misunderstanding us if you are saying that we say you should only—

CHAIR—Perhaps you might like to take it on notice because we are very confused.

Mr Hodge—If I could make a brief statement here, ASFA supports appropriate remuneration for politicians.

Senator SHERRY—Determined presumably by the Remuneration Tribunal, not politicians?

Mr Hodge—Yes, determined by the Remuneration Tribunal. There is an issue whenever a parliamentarian retires early, as will happen in this election, and there is one notable case through non-preselection—

CHAIR—I do not think we need a history lesson because that has been changed. We have a short time frame and we do not need a discourse on what has happened in the past, because parliament has seen fit to pass legislation to pick up that anomaly.

Mr Hodge—It appears that there is an imbalance in the scheme. At the moment, people who leave early get an overly generous benefit, whereas at the same time politicians say that long-serving politicians are not fairly remunerated and that they do not get a good deal out of the superannuation system. It appears that there is a problem with the scheme design rules. As such, we believe it should be looked at again in the context of overall remuneration. You do not take away on the one hand and not give on the other. That would make it more transparent both for the public and for politicians themselves. So when they go into the scheme they would know with some certainty what they will receive.

Senator HOGG—I have a couple of quick questions. Seeing that you are the first people appearing before us this morning, you are the ideal people to ask: do you know what the parliamentary superannuation conditions are to qualify for a pension?

Mr Hodge—Yes. You must serve in three parliaments or you must serve a minimum of 12 years. If you are elected partway through a parliamentary term—

Senator HOGG—All right; so it is three parliaments. I am using the generic term ‘politicians’ because everyone talks about politicians accessing this benefit: how many people who take up a parliamentary career in the federal parliament actually qualify to get the pension?

Ms Smith—I am not sure. Again, it goes to a design issue. If there are not many—

Mr Hodge—There are two aspects.

Senator HOGG—Your answer is that you are not sure.

Mr Hodge—I do not know.

Senator HOGG—Would it surprise you to find out that the average serving time for a politician, I understand, is in the order of seven years?

Ms Smith—Can I answer—

Senator HOGG—Therefore, the majority of them never, ever reach the qualification period.

Mr Hodge—The other aspect—

Senator HOGG—I will tell you why I am asking this.

Ms Smith—You are telling us, I think. The point we are trying to make—

Senator HOGG—Do you agree with me, though?

Ms Smith—I do not know what the numbers are on that. The point we are trying to make is that, if that is the case, the current scheme is not serving those people well. A redesign of the scheme along the lines of an accumulation arrangement, perhaps, which took into account the number of years that people were there and the total remuneration package, may be a fairer scheme for all involved. We would know as a community what the subsidies were.

Senator HOGG—The point is, though, that there is general ignorance, from my perspective, in the community as to who qualifies, to start with.

Ms Smith—That may be, but—

Senator HOGG—I have been in parliament for five years and I have not qualified.

Ms Smith—May I say that we know some of the rules but it took us quite some time to find out those rules, so there is a reason for—

Senator HOGG—We will beg to disagree there. The other matter I want to raise is that people talk about politicians in generic terms. Whilst this bill applies to federal politicians, it has no application at the state level or at the local government level, where they are eligible for some form of pension or otherwise. Have you got a view there? Have you looked at the states?

Ms Smith—No, we have not.

Senator HOGG—How does the Commonwealth handle the situation in respect of state or local government politicians? If you have not got a view, it does not matter.

Ms Smith—I have not got a view.

Senator HOGG—It seems that there is no analysis as to what is happening in superannuation. We are talking about transparency, and I am a great one for transparency. But there seems to be no analysis in respect of what my colleague Senator Sherry was asking about, in terms of what is happening in the corporate sector or what is happening in the public service sector. We know what is happening in the broader sector. In terms of the contribution rates that are being made there, the subsidy rates in those areas, do you have any access to—

Ms Smith—Those figures should be held by APRA and the ATO in terms of the contributions and flows of superannuation—

Senator HOGG—Do you people have any idea?

Mr Hodge—Over the broad Australian community, the average contribution rate made is slightly in excess of the SG maximum of nine per cent.

Senator SHERRY—We are not interested in the averages. We are interested in the departures from the mean and from the legislative minimum.

Senator HOGG—That is why I am asking if you have an analysis. If you could give us some sort of idea of what is happening in the corporate sector—

Ms Smith—We can; our paper on equity and superannuation provides an analysis by income profile and the superannuation flows.

Senator SHERRY—That would be useful.

Senator HOGG—Have you presented that to the committee before? We get so much material.

Ms Smith—It is a public document. We can provide you with a copy.

Senator HOGG—If you have not provided a copy so far, I would be interested in that.

Mr Hodge—You must bear in mind that the Association of Superannuation Funds has, for several years now, been calling for a general review of the entire superannuation system because we acknowledge that there are anomalies right across and that piecemeal changes are not going to solve the problems or address the issues.

Senator SHERRY—The Labor Party has committed itself to that review.

Mr Hodge—And the wide variance of benefits that are available would be the type of issue that we would be interested in discussing in the context of a review.

CHAIR—No doubt you will be back again. Thank you very much for your presentation this morning.

[9.07 a.m.]

DAL SANTO, Mr Robert Nicola, Director, Parliamentary Superannuation, Superannuation Branch, Department of Finance and Administration

HODGSON, Mr Alastair, General Manager, Business Services Group, Department of Finance and Administration

CHAIR—We welcome members of the Department of Finance and Administration who have a particular interest in the Parliamentary Contributory Superannuation Scheme. Thank you for coming to Sydney and for appearing before the committee. We also thank you for your submission that we received this morning. I invite you to make an opening statement.

Mr Hodgson—The superannuation branch within the Business Services Group handles PSS, CSS and parliamentary superannuation schemes. Unfortunately, Sandra Wilson, the head of that branch, could not make it today. She is off sick. Robert Dal Santo and I are filling in.

Senator HOGG—A regular correspondent.

Mr Hodgson—Yes, a regular correspondent.

CHAIR—Do you have an opening statement?

Mr Hodgson—No. You have received our apologies for our late submission.

Senator HOGG—Perhaps I can take up where I left off with the last witnesses. Are the details of the federal parliamentary superannuation scheme readily available?

Mr Dal Santo—Yes.

Senator HOGG—Where are they available?

Mr Dal Santo—The main rules are covered in an act of parliament which is obviously available to anyone.

Senator HOGG—Are the details available on a web site?

Mr Dal Santo—Yes, on SCALEplus and through other legal links.

Senator HOGG—So it is not a secret document.

Mr Dal Santo—An act of parliament is not secret.

Senator HOGG—No.

Mr Dal Santo—We have a handbook and a leaflet which are on our web site.

Senator HOGG—And they explain the scheme?

Mr Dal Santo—Yes. It is the same two page leaflet that is attached to our submission—although this one is updated and the one on the web site is not as up to date. It does not have the latest changes. However, it is available. The handbook—

Senator SHERRY—You mentioned the latest changes. Are those the changes that passed the Senate on the last day of sitting?

Mr Dal Santo—Yes. The pension deferral. We have got a short paragraph in this leaflet about it, but we still have to update the handbook itself. To answer your question, the Department of Finance and Administration web site does contain a copy of the handbook and the leaflet.

Senator HOGG—So they are readily available to the public. Do you know if that is the same with corporate schemes and other schemes, that the details of their schemes are as readily available as those of the politicians' schemes?

Mr Hodgson—We are not experts in that area. My observation is that they are not.

Senator HOGG—Seeing as you people are experts in the area, and I have asked this question of other witnesses, what are the conditions to qualify for a pension?

Mr Dal Santo—If a senator or member leaves voluntarily, the requirement is that he or she must have 12 years service or four parliamentary terms. For a senator, each six-year term is counted as two parliamentary terms. They are described in terms of occasions—when a member ceases to be a member on dissolution or expiration of their house or term of office.

Senator HOGG—And involuntarily?

Mr Dal Santo—If it is involuntarily, it is eight years or three parliamentary terms. It is important to note that the three parliamentary terms can be shorter than eight years, obviously.

Senator HOGG—Obviously if there is a double dissolution it could shorten the term of a parliament and therefore someone could qualify in under the eight years, and I accept that. How many people—and I mentioned a number before—actually qualify for a parliamentary pension?

Mr Dal Santo—Our data since about 1984 indicates that quite a high number do qualify.

Senator HOGG—How many reach the qualifying period? I said the average service is about seven years.

Mr Dal Santo—Our data indicates that about 70 per cent do.

Senator HOGG—Seventy per cent actually reach a pensionable qualification?

Mr Dal Santo—Yes. That of course includes senators and members who are defeated or lose preselection—

Senator HOGG—Those who go involuntarily because they are defeated after that eight year period or the three terms?

Mr Dal Santo—Yes.

Senator HOGG—How does the parliamentary superannuation package differ from other Public Service packages? Does it differ significantly and, if so, how?

Mr Dal Santo—In terms of qualifying, you need eight years or the three terms to qualify for a minimum pension of 50 per cent of a backbencher's salary. To gain a 50 per cent pension in the other schemes would take longer.

Senator HOGG—How much longer?

Mr Dal Santo—In the CSS, you qualify for a pension of 52½ per cent of final salary after 40 years service, at age 65.

Senator HOGG—That is the major scheme, isn't it?

Mr Dal Santo—That is the old closed scheme. It is the scheme that I am a member of. The PSS is a lump sum scheme, but you can convert the lump sum to a pension, based on conversion factors depending on age. I do not have the details of that at my fingertips, because my main area of responsibility is the parliamentary scheme.

Senator HOGG—All right. I will pass the question.

CHAIR—It is discounted if you take it early?

Mr Dal Santo—Pensions are discounted. They are lower if you are younger than the maximum retiring age and the conversion factor is—

CHAIR—It can be taken earlier but it is discounted?

Mr Dal Santo—Yes.

Senator SHERRY—Could you give us a summary of the operation of schemes in respect of state parliaments and the territories?

Mr Dal Santo—No.

Senator SHERRY—I am not suggesting now, but you could take it on notice.

Mr Dal Santo—We do not have any responsibility for those schemes. It would be something that the states themselves should, perhaps, be providing.

Senator SHERRY—Fine. I thought you might have the data, that there might be some contact with the states.

Mr Dal Santo—There is no guarantee that anything we have is up to date because their arrangements change also. It is difficult for us to say that anything that we would provide is up to date.

Senator SHERRY—Okay. I thought you might have the information and if so we would like a copy.

Mr Dal Santo—No.

CHAIR—Senator Hogg.

Senator HOGG—I've got nothing.

CHAIR—No questions, Senator Sherry?

Senator SHERRY—I have asked the only one I wanted to ask.

CHAIR—In terms of the private member's bill that we were looking at this morning, it is surprising that there is a recommendation for a substantially lesser entitlement through the superannuation pool. On the other hand, there would appear to be greater justification for that if, on retirement, people had the option of moving that pension component to another fund. Public servants also complain that their money sits there attracting CPI whereas if they had an entitlement to move it to another fund they would get the benefit of interest and growth. Do you have a view about whether, because other sectors of the community have the opportunity of collecting their preserved amount or transferring it to an eligible rollover fund, that entitlement should be given to both public servants and retired members of parliament?

Mr Hodgson—I am not sure we have a view one way or the other. The scheme at the moment is unfunded so if we were to allow—and this applies to the PSS and CSS as well—members to transfer their funds when they leave that would have a budget impact on the Commonwealth. I think that has happened in Victoria where the state government has agreed to a transfer of benefits albeit discounted. This has had an impact on their budget.

CHAIR—Let us take it to another set. Wouldn't it be logical for people to be able to take at least their eight per cent, which is the community norm, and put it across to a nominated eligible rollover fund? I say this not only for members of parliament but also in terms of the lump sum component. Public servants complain that, given the greater mobility of people within that work force, perhaps given the greater turnover of members of parliament, there is not the permanency, perhaps, that there has been in the past. Isn't there a case for at least the community norm, the eight per cent, to be available with a lump sum component of that to be transferred to an eligible rollover fund in terms of trying to get consistency, which Ms Smith and everybody else was trying to advocate, into the system?

Mr Hodgson—I guess it is really a question for the government. It would clearly be more in line with community norms if that were the case.

CHAIR—Are there any comments?

Senator SHERRY—On that issue, you pointed out that it would be at extra cost. Why is that?

Mr Hodgson—Because these schemes at the moment are unfunded—in the sense that there is no pool of money readily available to pay these amounts. They are only paid as and when they fall due as entitlements, which is a much longer tale. If generally we offered public servants the opportunity to take their funds when they left, that would require the government to put more money up-front.

Senator SHERRY—Effectively the person who argues that wants the best of both worlds, don't they? They want high levels of contribution while they are in the fund prior to retirement, and then they want to be able to withdraw their money. They may or may not get a higher level of return, or full retirement, as well, and they may or may not get a high level of return on the accrued lump sum at that point in time.

Mr Hodgson—With the schemes established at the moment, escalation is based on the CPI.

CHAIR—It is a type of knee-jerk reaction to the bill. Could you provide the committee with some comments about technical deficiencies in the bill in terms of its repercussions? Some of the aspects really have not been thought through. Would you like, for the *Hansard* record, to summarise some of those problems arising from the bill? In terms of the ramifications, it is not as simple as it appears to be, because it does have quite a number of technical deficiencies. For example, there is no framework under which, for example, choice will be applied to senators or members with these sorts of issues—questions of contributions, reversionary benefits and those sorts of things, issues which you very carefully put forward to us in your submission, for which we thank you. It is a very thorough analysis, the sort of presentation that the committee appreciates.

Mr Dal Santo—First of all, with chapter 6, what we did was to look at the amendments in the bill against the current provisions in the Parliamentary Contributory Superannuation Act. For instance, in relation to the new provision that says that the core contribution should be made in accordance with the Superannuation Guarantee (Administration) Act, the Superannuation Guarantee (Administration) Act does not actually require employers to make contributions. It imposes a shortfall charge if they do not make a contribution. So you need a mechanism, obviously, to provide an authority, or to provide an obligation, for these changes to be made—to provide an obligation on the part of the Commonwealth to actually make the contributions. That is one aspect.

Senator SHERRY—What is the current penalty? Is it 25 per cent or something?

Mr Dal Santo—I think the 25 per cent might apply to the proposed new choice arrangement. That is something that I have read. The penalty, as the law stands—

Senator SHERRY—For non payment of SG.

Mr Dal Santo—The shortfall is eight per cent applied to the actual salary or wage of the employee plus a charge on top of that which goes to the tax office, and then the tax office has to make sure that the SG goes to a fund for the employee.

There is a provision in the bill that is worded in such a way that seems to require senators and members to be members of another fund throughout their whole membership of the parliament rather than just when they are going to opt out of the scheme. In other words, we are saying that they need only be in another fund or RSA—retirement savings account—on or before making the choice to opt out and then stay in that fund.

The amendments in the bill are based on the assumption that members pay contributions to the Parliamentary Retiring Allowances Trust, but that is not the case. Contributions are actually paid to the Commonwealth. All moneys go into consolidated revenue and all benefits come out of consolidated revenue. It is a technical thing that needs to be addressed so, if the arrangements were to apply, they work appropriately. Another potential problem is that if someone who happened to be the spouse of a former member as well as a member in their own right were to opt out and forgo their current entitlements under the scheme in order to get the SG safety net, they could also be forgoing a reversionary benefit for themselves or for their children. That is another technical difficulty that is perhaps unintended. As we mentioned in chapter 5 of our submission, the bill does not contain any details or guidance on any further mechanism except to say that, once you opt out, you are subject just to the SG arrangements. There is nothing to say that there needs to be any counselling or that the Commonwealth might have a responsibility to make a member who is going to opt out aware of the implications of opting out, et cetera.

As Alastair pointed out too, in relation to the explanatory memorandum, we made a point mainly about preservation. In shorthand, the thrust of our comments is that the parliamentary scheme is subject to the preservation rules not by the operation of SIS per se but because there is a provision in the act that says that the preservation rules in SIS will apply to benefits under the Parliamentary Contributory Superannuation Scheme. Therefore, lump sums are subject to all the normal preservation rules, including commutation lump sums.

Senator SHERRY—Just on that last point, are you saying that that existed prior to the bill that was passed?

Mr Dal Santo—Yes. It has existed since 1994.

Senator SHERRY—What would happen if a member of parliament just flatly refused to belong to the current scheme?

Mr Dal Santo—The mechanism is not a ‘I will join’ type mechanism; it is, ‘We will deduct contributions from your salary,’ and therefore there is, in fact, no choice as to membership.

Senator SHERRY—Yes, but legally you could not deduct a contribution. I can understand that. That is the 11.5.

Mr Dal Santo—Yes, the 11.5 per cent. But the act provides for deductions to be made from the parliamentary allowances.

Senator SHERRY—What if someone simply refuses to take the benefit? How do you force a benefit on someone, if they do not want it?

Mr Dal Santo—I guess we would have some difficulties. If someone is entitled to a pension, the normal payment arrangement is to pay it into a bank account.

Senator SHERRY—Exactly. What if they say, ‘No, you can’t pay it into my bank account. I don’t want the money’?

Mr Dal Santo—I guess then we would probably have to issue a cheque and somehow send it to their address.

Senator SHERRY—What if they return it?

Mr Dal Santo—We would need to find a mechanism to pay it. The benefits are inalienable. There is a provision that says the benefits are inalienable.

Senator SHERRY—But, at the end of the day, you cannot force someone to accept payment if they do not want it.

Mr Dal Santo—No, but we can take all action that we can possibly take.

Senator SHERRY—I understand. To protect yourselves, you would have to go through a set of processes because you have a legal obligation.

Mr Dal Santo—Yes, to make the payment.

Senator SHERRY—But, at the end of the day, if a person does not want to accept payment, they can refuse to accept payment.

Mr Dal Santo—I suppose, from their point of view, they can.

CHAIR—They could send back the revenue as cheque unrepresented.

Mr Dal Santo—There is an obligation on us to roll over lump sums, for instance; so we would try to find a fund to park the money.

CHAIR—It might be an appropriate question for Mr Andren.

Senator SHERRY—Has that ever happened in the Commonwealth scheme?

CHAIR—A number of people have talked about it, but never acted on it.

Mr Dal Santo—They have not acted earlier in the piece telling us what fund they wanted their preserved bit paid to when it was a fairly small amount. That is one problem that we have had. I am not aware of this difficulty in relation to a pension.

CHAIR—Thank you very much.

[9.32 a.m.]

BURT, Mr Michael Donald, Actuary, Australian Government Actuary

MARTIN, Mr Peter Colin, Acting Australian Government Actuary, Australian Government Actuary

DAL SANTO, Mr Robert Nicola, Director, Parliamentary Superannuation, Superannuation Branch, Department of Finance and Administration

HODGSON, Mr Alastair, General Manager, Business Services Group, Department of Finance and Administration

CHAIR—Welcome. We invite you to make a short opening statement.

Mr Martin—We were invited to appear before the committee on 20 June, which we did. We have not made a submission as such. We have had discussions with the Department of Finance and Administration and the Department of the Treasury as to the best way for us to make a contribution. We agreed that we would appear to give evidence. Finance have kindly allowed us to look at their submission. We had a quick read of it earlier this week and provided them with some comments. We have been instructed, effectively, by the Department of the Treasury to restrict any input that we give here to technical advice, financial impact information.

Mr Burt—I do not have anything further to add to Peter's opening statement. We have read through the private member's bill and noted a few technical areas where it could be improved, although the intent of the bill is fairly obvious.

Senator SHERRY—How long have you been Acting Government Actuary, Mr Martin?

Mr Martin—Since 1 April.

Senator SHERRY—What is happening with the permanent appointment?

Mr Martin—You would have to ask Treasury about that.

Senator SHERRY—I am a bit concerned, not in the current context but because actuaries are fairly important in the scheme of things—and you know the discussion we had at estimates about this. I am just wondering how long we are going to go on for without having a permanent Government Actuary. I am sure that you would like to know as well.

Mr Martin—It is really not my call.

Senator SHERRY—So no date has been set?

Mr Martin—Not to my knowledge, no.

Senator SHERRY—Is there any requirement under the act for a time frame for appointment?

Mr Martin—You are probably talking about the Public Service Act in general. My understanding is that the position of Government Actuary does not exist per se: the incumbent is designated Government Actuary by the Treasurer of the day or the Treasurer's delegate.

Senator SHERRY—Have there been any advertisements internally or externally so far?

Mr Martin—No, not so far.

Senator SHERRY—Do you know if there are to be any advertisements?

Mr Martin—No, I do not know. I am not sure of the time frame that we are talking about.

Senator SHERRY—Is there any process that has commenced that you are aware of?

Mr Martin—Towards permanent appointment?

Senator SHERRY—Yes.

Mr Martin—Not that I am aware of, no.

CHAIR—I think that we had better move on—Mr Martin has answered your questions as far as he can. The financial impact of the proposal obviously depends on whether you take a short-term or a long-term view. That is how I view it. What is your analysis?

Mr Burt—Are you talking about the Andren proposal—if I may call it that. This is really a question for the Department of Finance and Administration and I think that they basically answered it in their earlier session. Essentially there are two impacts: one is the overall cost of politicians' superannuation, which basically should go down because effectively the benefits being provided would appear to be less than the current regime—or cannot be more, which is the way I probably ought to describe it. The other is that there could be a cash flow impact in the sense that funding for benefits in advance does affect this year's cash flow rather than some future year's cash flow. Does that answer your question?

CHAIR—In terms of choice it introduces a new element, because in a sense there is no choice under the current arrangement. You have a choice in the Andren proposal. Do you perceive that as posing any particular problems?

Mr Martin—From a financial impact perspective?

CHAIR—Yes.

Mr Martin—Not necessarily. It would be entirely conceivable that someone might elect or choose to opt out and receive lower benefits, therefore imposing a lower cost on the Commonwealth. So, while typically you might—

CHAIR—If everybody followed the Andren proposal, what would be the financial impact on the Commonwealth?

Mr Martin—We certainly have not done those costings and we would probably need to take instructions from either the trust or Finance on that.

CHAIR—The difficulty at the moment would be just trying to estimate how many people would exercise that option. Would you expect any to exercise it? In a mathematical sense, would it pay people to do it or would they be doing it for other reasons?

Mr Martin—I do not think that it is up to us to speculate on why people might do it.

CHAIR—Is there a mathematical advantage in people adopting this proposal? Is there any superannuation benefit or mathematical benefit in following the line that Mr Andren is proposing?

Mr Burt—If you are asking if it is rational from a financial point of view for people to take up the option—

CHAIR—That is right.

Mr Burt—the only reason I can see that that would apply is that, effectively, by opting out, you save having to pay 11½ per cent contributions into the scheme. You may be accepting a lower superannuation benefit in return for an increase in take-home pay. You may be prepared to put a higher value on that increase in take-home pay than on the extra superannuation benefits forgone.

CHAIR—So if you intended to stay only a very short term in the parliament, do you think that that might pay you? But then again, you would forgo, wouldn't you?

Mr Burt—It would be a decision for the individual as to what weight to put on the increase in take-home pay versus the forgone superannuation benefits.

CHAIR—What would be the impact if you accepted the Andren proposal in terms of the one and one-third or two and one-third supplement that you get if you are a very short-term employee of the Commonwealth as a parliamentarian?

Mr Burt—I presume that you are talking about the costs to the Commonwealth.

CHAIR—I am trying to work out the Andren proposal of putting money aside. Andren talks about a pension. What about the supplement if you do not qualify for a pension? Under the Andren proposals, according to your reading of the bill, and if you serve just one term, do you pick up the one and one-third Commonwealth contribution?

Mr Burt—That is a relatively concrete example. Let us assume that it is a one-term person, they serve three years and they go involuntarily—that is, that they lose their seat at the next election. From memory—I always get this wrong—the supplement is two and one-third times

the 11½ per cent. It is a bit more complicated than that, but you are probably getting superannuation of about 20 per cent per year. Under the Andren proposal you would only get SG, which would be eight per cent or nine per cent, so you obviously would probably roughly halve your employer support. Those are obviously very crude—

CHAIR—If you accept the Andren proposal, do you also forgo the supplement? That is the question I am asking. I know that you forgo the pension, because you have an alternative to that, but in terms of supplement, as a short-term person, would you be entitled to the supplement?

Mr Burt—My reading of the Andren proposal is that, on transfer out, you do not get that supplement, you get just the contributions that you have paid to the Commonwealth in respect of your trust membership, plus the superannuation guarantee allowance. If my understanding of the proposed bill is wrong, please let me know, but that is my understanding.

CHAIR—We are trying to work out the implications of the bill in terms of the full impact of it. The pension entitlement is quite clear, but I was just a little uncertain whether that supplement comes in under another provision of the act.

Mr Burt—The supplement is under the Parliamentary Contributory Superannuation Act 1948, and that is assuming that you go involuntarily after three years. That supplement is set out under the act.

CHAIR—I just want to see whether there is a nexus between the Andren proposal and that supplement for short-term stayers in the parliament.

Mr Martin—You might direct that question to the Department of Finance and Administration.

CHAIR—Mr Dal Santo, are you across the issue as to whether a person forgoes the supplement in terms of being a short-term member of parliament if the Andren proposals, as they are stated at the moment, go through?

Mr Dal Santo—Our understanding of the Andren proposal is that if a person has been in the scheme and then they opt out, what is transferred would be what is described in paragraph 9 of our submission, and that is the SG safety net, which, forgetting about an amount that has been chalked up as at 30 June 1992, is basically the senator's or member's own contributions during parliamentary service, plus the super guarantee employer contribution at the appropriate rate. Looking into the future, that would be nine per cent, plus interest on those contributions.

The safety net amount is there in the case of the ordinary lump sum benefit, which is a refund of contributions plus the supplement or half the supplement. In other words, to put it in simple terms, if a normal lump sum benefit is less than the safety net, then the safety net kicks in, and that is payable under the scheme. That is what the choice arrangements would pick up in terms of rolling out.

CHAIR—In the case of invalidity, does the Andren proposal pick up insurance availability to cover a person who might be invalided out of parliament because of an accident, sickness or for some other reason?

Mr Dal Santo—My understanding would be that, once you are out of the current arrangements, it is your new fund that would need to pick up any invalidity benefit.

CHAIR—The Commonwealth would not have to handle it?

Mr Dal Santo—No. The current arrangements for invalidity in the scheme would apply only to members who stay in the scheme.

CHAIR—Yes, but the Andren proposal would rely on an outside fund providing the invalidity benefit as part of their package?

Mr Dal Santo—That would be my understanding.

CHAIR—I just wanted to clarify it.

Senator SHERRY—Mr Martin, do you know of any data that the committee can obtain on payments made for superannuation by the employer in excess of the SG? Is there any document we can get, particularly for the private sector? Government—public service—can be accessed, but with respect to the private sector, do you know of anything that you could make available to us?

Mr Martin—We do not have anything as such. You might be able to get something from APRA.

Mr Burt—I think it is very unlikely that APRA would have records of that in the sense that I do not believe records are kept of, ‘Is your scheme an absolute minimum as required under a superannuation guarantee?’

Senator SHERRY—I did raise with APRA whether they could provide me with an overview of the level of fees, charges, commissions and returns. They told me they did not collect the data, which I must say surprised me. Anyway, we will write directly to APRA. I thought you might be able to tell us of some source we could go to.

CHAIR—Thank you very much for giving evidence today.

Proceedings suspended from 9.48 a.m. to 10.25 a.m.

CLENDINNING, Ms Anna, Secretary, Remuneration Tribunal

HUMPHRY, Mr Richard, President, Remuneration Tribunal

CHAIR—I would like to thank Mr Richard Humphry and his assistant for coming to Sydney today and attending this hearing to present evidence. Do you have an opening statement?

Mr Humphry—I have a very brief one. I thought it might be helpful to mention that, of course, I welcome the opportunity to participate in the public hearing of the Senate Select Committee on Superannuation and Financial Services. As committee members would be aware, the tribunal is an independent statutory body. Part of its duties include the responsibility for determining the annual base salary of MPs and salaries of parliamentary office holders, and entitlements to MPs outside Parliament House, including office accommodation, equipment and various travel allowances.

Parliamentarians' superannuation benefits are provided under the Parliamentary Contributory Superannuation Act 1948 and do not come within the tribunal's jurisdiction. However, during its review of the entitlements of MPs over the years, the tribunal has tried to take into account the overall remuneration of MPs, including superannuation, in determining whether remuneration for MPs is broadly at an appropriate level. I am aware of the debate in the parliament on the government's recent legislative changes to the parliamentary superannuation arrangements. I understand that during the debate a number of comments were made about the appropriate role of the Remuneration Tribunal, in particular in the area of parliamentary superannuation and related matters.

On a matter related to the general issue of parliamentary superannuation, the committee would be aware of the announcement by the Minister for Finance and Administration on 26 June that the Remuneration Tribunal would be requested to consider the provision of a redundancy type benefit limited to new members or senators who may require assistance to establish themselves in the work force. The tribunal has not yet received a formal referral from the minister, but it is within the tribunal's powers under the Remuneration Tribunal Act 1973 to inquire into and to determine that members of parliament receive redundancy type benefits when they are not re-elected.

CHAIR—Thank you, Mr Humphry. You mentioned the possible reference to you from the Minister for Finance and Administration in terms of a redundancy benefit. This matter was raised in 1997 when this committee was asked to report on certain features of parliamentarians' entitlement. We are very conscious of the financial problems faced by new members of parliament, particularly coming from marginal seats, where they are likely to incur a high proportion of costs. When they face another election, they might incur another series of high costs, and if they are defeated they go out with an even higher bank overdraft than when they came in. That was the problem in terms of getting a fair cross-section of people into the parliament and encouraging them to stand for marginal seats because, in a sense, quite often these people, I believe, are very close to the population which they serve. We did not want an impediment to be there so that people did not want to challenge for the marginal seats as

opposed to the blue-ribbon type approach, where their future might be assured. We would certainly, as a committee, endorse that sort of concept.

Mr Humphry—We will be proceeding as soon as we receive it. I agree with the sentiment that you are expressing.

CHAIR—It is not like a normal member of the community applying for jobs. Most of these people in marginal seats spend an awful lot of money to get there, and on standing in the first place, because the emphasis on those seats, the narrowness of the margin and the closeness of the campaign do entail the spending of a lot of money.

Mr Humphry—Once we begin a process that involves looking at payments which relate, perhaps in the broader community, to the normal termination of employment, then I think it will tend to raise further the question of whether or not there can be some other form of standardisation, because superannuation is paid generally.

CHAIR—Yes, of course.

Mr Humphry—That is a move which, by the way, I would support. It is very difficult at the moment to introduce reform or to provide for the flexibility that many new members of parliament really do require, given age, gender and circumstances. A less rigid approach to the whole process is one that would be, in the longer term, preferable.

Senator SHERRY—You may be aware from the parliamentary debate that the Labor Party's position is that parliamentary superannuation should be determined by the Remuneration Tribunal, or some other independent tribunal, but I think it would be eminently logical for your tribunal to determine it. Would that require a reference from the minister?

Mr Humphry—It would require a reference from the minister. We would have to get legal advice as to whether or not we would have the statutory power to carry it out. At the moment, one of the difficulties is that we have different acts governing these things. It may require some amendment to legislation, but I am not qualified to be able to give a proper opinion on that. It is certainly a function which I would welcome, frankly, because we have a position at the moment whereby there is fragmentation regarding the determinations being made, which makes it very hard to get a coherent, consistent policy running through the process.

Senator SHERRY—So you would welcome a reference on that issue?

Mr Humphry—Yes.

CHAIR—It would have to be a reference associated with changes to the act.

Mr Humphry—Yes. It is certainly a matter that would need to be considered.

Senator SHERRY—I have put this issue to a number of witnesses: are you aware of any documentation that exists, or any surveys that we could get hold of, that would give us an

overview of superannuation entitlements for people elsewhere in society, particularly in the private sector?

Mr Humphry—There are a number of financial planning organisations that would probably have documentation which would set out the range of entitlements and legislative frameworks within which people are able to operate. The nature of financial planning requires that the financial planner gives advice to the client on what options might be available to them, so they have to do the research. There are a number of organisations, such as the state superannuation financial services organisation here in New South Wales, that provide a post-retirement service to their clients. I would think that virtually any other large financial planning organisation would have something of that sort available.

CHAIR—With respect to the bill that is before us at the moment, which is a private member's bill, how would you see that interacting in terms of what we have got at the moment? Wouldn't it create further discrepancies and inequities that you have previously suggested need tidying up in the long run?

Mr Humphry—Yes. I do not think it would actually provide a total solution. I understand that the bill as it has been put forward is intended as a positive step towards providing greater choice. I support the concept, but I have to say that if it is going to be done, it would be better to be done in a broader context so that we can consider other issues.

I will illustrate what I mean. We recently had a conference on this with all the state remuneration tribunals. The difficulty arises, for example, if you want to introduce motor vehicles as part of an entitlement, a capacity. It is all right to provide a vehicle with a driver—that is not an issue—but if you provide for private plated vehicles to be driven, automatically you have to either exclude that from superannuation entitlement or prevent those who do not drive from receiving any benefit at all. In other words, the most equitable way to handle such a situation would be to say, 'If you wish to drive, a vehicle can be made available, but the cost of that will be built in as part of your remuneration. If you do not wish to drive, then you receive, in lieu, cash.' But you cannot do that under a system in which superannuation is treated separately and entitlements relate to the cash payment in some way. So there are built-in restrictions. If one is going to reform the system, and if that is really what is being envisaged, then one would have to approach it at a more holistic level. That would, in fact, involve superannuation arrangements in which people make contributions to accumulation funds, as they do in the rest of the community.

CHAIR—In terms of the bill, why would people want to adopt the Andren proposals?

Mr Humphry—I do not think that, at the moment, there would be much benefit from it, unless the flexibility was really important to them, because they would be giving up significant benefits, as I understand it.

Senator HOGG—I would like to raise an issue. In response to the question before last, you mentioned a meeting of various state remuneration tribunals. For my information, and for the committee, how many states do have an independent remuneration tribunal? Secondly, what is the relationship between your remuneration tribunal and those that exist in the states?

Mr Humphry—Until recently, every state and territory had its own remuneration tribunal. Victoria, I think, does not have a remuneration tribunal at the moment. All of those meet every year. We do it because our responsibilities extend beyond the establishment of salaries for members of parliament; most of us deal with judicial salaries. The difficulty that has arisen historically is when they all operate independently—and they are independent organisation; they are not subordinate bodies to the Commonwealth Remuneration Tribunal. We have all agreed that it is rational that we meet to look at the factors that go into the determination of remuneration to ensure that we do not have a situation in which some are leapfrogging over others. Particularly in the judicial area, considerable attention is paid to the respective relativity of the courts. To take an exaggerated example, you could have in one state a significant movement in remuneration for judges and then the pressure goes on immediately in other jurisdictions to do the same thing. The purpose of the meeting is principally to look at some way of bringing about a consistency of approach to the national determination of remuneration. For members of parliament, the problem has already been mostly solved because the state remuneration tribunals have a policy which determines their remuneration based on the determinations we make for the federal parliament less a sum of money—normally about \$500.

Senator HOGG—That is strictly in terms of salary, though, and nothing else.

Mr Humphry—Yes, that is correct. We have also put this on our agenda: how do we explore ways of providing greater flexibility for those who need it in parliament? Many of the determinations historically have been brought in in an environment where you have a married male member of parliament with 2.5 children, and they are geared to that type of situation. Many members of parliament now may be unmarried, they may have partners of either sex, or they may have other needs which require them to have some flexibility in their remuneration.

Senator HOGG—Have you catered for males with three children?

Mr Humphry—I am prepared to be open, Senator.

Senator HOGG—It is self-interest; I have three.

Mr Humphry—I will consider any options. It does strike me that remuneration should not be a problem for members of parliament in discharging their duties. What I mean by that is that they should not—and the chair referred to this earlier—have to sacrifice unreasonably to be able to carry out those public duties.

The idea I have is that, as far as possible, I am interested in providing the maximum amount of flexibility consistent with good management principles. I also think that there is good logic in moving closer to standards that apply in the rest of the community. I think one of the difficulties that applies at the moment is the perception that members of parliament are receiving in some way an unreasonable benefit which is out of line with the rest of the community. The parliament, after all, has passed legislation governing transparency issues and disclosure requirements which do not apply to themselves.

Senator SHERRY—Just on that principle, Mr Humphry, if you look at superannuation vis-a-vis the rest of the community—and I accept that politicians' super is substantially greater than the SG; it is obvious—don't you think that the reality is that it would be very difficult to apply

any sort of comparative wage justice, I suppose, in terms of what a politician is paid, compared to people in the private sector?

Mr Humphry—I agree with you that the expectation of the community is that it should be really geared to a lower rather than higher—

Senator SHERRY—The community just will not—

Mr Humphry—I am not advocating that. I accept that. But I think that is a question of quantum. I am thinking more in terms of the way in which it is delivered. At the moment you essentially have a fragmented environment. You have got one act governing super, another one dealing with your remuneration and you have got certain allowances which are actually approved by the Special Minister of State. You have got a fragmented environment. It makes it very difficult to get a consistent approach and there is no adequate transparency to the process, I believe.

I do not think that is in the interest of members of parliament. I think that it actually makes your job harder. It is not that there is any fault in it. It is just the way that things have grown up. My preference would be to have standards which apply more closely, but I am not suggesting for a moment that we would be moving to remuneration levels which would be out of line with the rest of the community. But we do try to take into account your super benefit as far as we can in determining the remuneration, only in the sense of trying to look at it from a total—

Senator SHERRY—I must admit that I did not realise that you did that, but given that you have given us that evidence, aren't you effectively saying that if you reduce the superannuation entitlement then, in terms of a package, the logic is that you increase the pay?

Mr Humphry—Yes.

Senator SHERRY—I am not suggesting that or advocating it, but it seems to me that following your logic, that is what you would do.

Ms Clendinning—I want to clarify something that Mr Humphry has been saying. While parliamentarians' base salary is not a direct responsibility of the tribunal, the government has chosen to link the base salary for MPs through the principal executive officer structure, so when the tribunal sets something, they know that it is going to flow on. That is part of that general process.

Mr Humphry—Coming back to Senator Sherry's point, at the moment a parliamentarian receives superannuation entitlement plus his or her salary. I am proposing that, if you were ultimately to be in the same position as the rest of the community, you would have, in fact, a package—

Senator SHERRY—All determined in this case by the Remuneration Tribunal?

Mr Humphry—Or by a body, which would be—

Senator SHERRY—Or an independent body.

Mr Humphry—I always think it is better to have it done externally.

Senator SHERRY—I agree. I have got no doubt that that is the best way.

Mr Humphry—Yes. Otherwise you are open to criticism.

Senator SHERRY—For example, I think it is absurd that we, as a committee, are dealing with this bill. There is an obvious conflict of interest.

Mr Humphry—That is the difficulty which needs to be addressed. We are dealing with two issues here. One is the question of the machinery of how one deals with it, and that is something which does need careful consideration. The key issues are independence and some form of ability to bring about consistent policy, which are highly desirable. The second question is that if you are receiving a benefit now—I am talking about more flexibility of how to package it. I have seen the situation where younger members of parliament desperately need a higher ability with their current income, just as people do in the rest of the community. Superannuation is something which they may prefer to put more resources towards as they get older. You would actually have to reduce the government contribution to that super now and it would take a lot of care to work out how to do it and some form of grandfathering arrangement. By the way, I am not advocating this, I am just pointing out that if one is going to do it, I think it has got to be done properly.

Senator SHERRY—You have mentioned meetings with other state tribunals. Do you have any sort of knowledge or perhaps a document that outlines the superannuation entitlements of state and territory jurisdictions?

Mr Humphry—Yes. I think we would be able to obtain that.

Ms Clendinning—That is something that I am in the process of seeking from other tribunals. I know that Western Australia has some different arrangements.

Senator SHERRY—Tasmania certainly does. They scrapped theirs and just have SG.

Ms Clendinning—Yes. That is the sort of thing we would be compiling.

Senator HOGG—New Zealand should also be looked at too, because they have made some changes recently.

Ms Clendinning—And internationally.

Senator SHERRY—What about Canada, the US, UK? They are reasonably comparable democracies.

Ms Clendinning—I do not have any information to hand at the moment that I am aware of in the secretariat resources, but we would probably be investigating that.

Senator SHERRY—If you are able to obtain that data that would be of use.

Mr Humphry—We would be happy to do that. The only comment I would make is that I think that ultimately the objective should be to try to link it with community standards here in Australia rather than just look to see what could apply in a separate system overseas.

Senator SHERRY—I am not suggesting we link to any sort of overseas system. There are different formulas. Look at Singapore: you just could not tolerate a situation where ministers are paid, I think, half a million dollars or some incredible amount.

Mr Humphry—If we do not lay this issue to rest in some way, the incentive is there to build the non-transparent allowances up over time at the expense of the transparent, annual determinations. That is the thing that concerns me most. It tends to lead, because of political pressure, towards allowances applying more in those areas that are not disclosed.

Senator SHERRY—You mentioned the issue of transparency, and ASFA touched on this earlier. The pay and conditions of parliament are available on the web, as I understand it. These figures are published.

Ms Clendinning—All the determinations made by the tribunal go on the Remuneration Tribunal website, and there are indices that people can use to access that. People may also call the secretariat—

Senator SHERRY—So when we talk about transparency in that sense, all or most information is available?

Ms Clendinning—It is certainly there.

Senator SHERRY—It would surprise many people in the community if they knew that military personnel receive a superannuation scheme which is significantly above community levels.

Ms Clendinning—We do not deal with that.

Mr Humphry—I agree with that. That is another case where there is another tribunal dealing with it. But I agree entirely. What is not disclosed on the web or anywhere else are those superannuation entitlements.

Ms Clendinning—Apart from the information about the basic elements of the scheme, which Finance has already given evidence is on the their website.

Mr Humphry—If you go to any corporate organisation you will find there a table which is required by law to disclose not only the remuneration but any other benefits that are obtained. I am not suggesting we all rush off and—

Senator SHERRY—I know your knowledge and expertise, Mr Humphry, but I have looked at quite a few annual reports and the table does not disclose their superannuation benefit, as I understand.

Mr Humphry—No, that is true, but if there are any other allowances that are received for any other purposes they are disclosed. Under the normal standards that apply in the community generally, there is a fixed percentage which is contributed by the employer and if the employee contributes to superannuation that comes out of that total remuneration that is disclosed.

Senator SHERRY—I asked about this earlier: the level of superannuation contribution, whether it is direct from the employer or a combination of salary sacrifice which is indirectly paid for by the taxpayer through a tax concession, is not readily available, as I understand it.

Mr Humphry—The salary sacrifice component will be included in the total disclosable remuneration; it has to be.

Senator SHERRY—But it does not give a breakdown of the number of people and the levels that are being paid.

Mr Humphry—I think there is a limit. So many people—the top earners within the organisation—have to be disclosed, yes.

Senator SHERRY—There might be a company with 1,000 people employed, and it may be only the senior management—20 or so—who have that option. I am actually interested in finding out what is happening in the marketplace in terms of retirement incomes and in getting some sort of idea about the level of effective contribution.

Mr Humphry—The organisations that I am aware of all provide salary sacrifice options to virtually all employees. There is no restriction on that that I am aware of. There may be some that do, but I am not aware of them.

Senator SHERRY—What I am interested in is hard data about the average level of payments and incomes so that in terms of transparency we can actually see what is happening.

Mr Humphry—I would have thought that information would be fairly readily available from companies.

Senator SHERRY—Yes, but we do not want to do a search of every company in the country. What I am interested in is a representative survey about what is happening in the private sector.

Mr Humphry—You would have to do a sample. I do not think anybody would know unless they actually went through their—

Senator SHERRY—There are still a significant number, albeit there is a decline in corporate superannuation funds, which do have provisions in them which in many cases were written long before the superannuation guarantee, and they are good funds in the sense that they are generous

in terms of the superannuation guarantee. But it is hard to get surveyed data about what is happening.

CHAIR—Thank you very much, Mr Humphry, for all the comments that you made. I think it is appropriate for the public record that I should declare an interest. I am a member of the parliamentary retiring allowances trust committee chaired by the minister for finance as part of the Parliamentary Contributory Superannuation Scheme.

[10.54 a.m.]

ANDREN, Mr Peter James, MP

CHAIR—Mr Andren, thank you for appearing before the committee today as a member of the House of Representatives. We acknowledge that you are not obliged to appear before our committee, but we thank you for your appearance and for explaining the purpose, scope and intent of the private member's bill. We invite you to make a short opening statement, following which, in accordance with the usual committee procedures, the committee will proceed to question you on aspects of the bill. As you know, before us this morning we have had Philippa Smith from the Association of Superannuation Funds of Australia, the Department of Finance and Administration, the Australian Government Actuary and, just now, Mr Richard Humphry AO, President of the Remuneration Tribunal. We found all their evidence very helpful.

Mr Andren—I drafted this private member's bill and I would like to make an introductory set of comments. Apart from the indefensible generosity of the parliamentary superannuation scheme, its totally unfunded nature is a gradually increasing and totally unwarranted liability on future taxpayers. This bill simply allows members and new members to elect not to make contributions to the Parliamentary Retiring Allowances Trust upon taking office, and instead to make contributions to a complying superannuation fund or retirement savings account of their choice. The bill gives current senators and members the same choice and would also allow them to roll over accrued contributions and an actuarially devised Commonwealth contribution to a complying fund or RSA of their choice. If a senator or member elects to opt out of the parliamentary scheme, he or she will also have superannuation contributions paid into their chosen fund or RSA by the Commonwealth.

Freedom of choice is basic to the philosophy of the government in a wide range of policy areas, and in general I have absolutely no disagreement with this stance. The government currently has legislation before the Senate designed to give employees greater choice and control over their superannuation arrangements. I support this legislation and look forward to the day when people can make their choice; indeed, in funds that promote ethical investment in areas like regional development programs and environmentally sympathetic projects such as alternative energy. However, senators and members are expressly exempted from the government's choice of super fund arrangements. As I state in the explanatory memorandum to my private member's bill, the choice of super for parliamentarians seeks to give parliamentarians the same freedom of choice the government has already sought to give other workers.

There is nothing radical in this legislation. Short of the preferable option of totally dismantling the parliamentary scheme and either establishing a fully funded scheme or, more preferably, requiring members to make their own private arrangements with their employer making the required guarantee, this bill is a logical first step. My arguments for opposing the current scheme are well documented and I do not intend to expand on them in these opening remarks. I believe the current parliamentary scheme, notwithstanding the recent amendments, is excessively generous. Those who do not wish to access its generosity and who wish to align their superannuation with general community standards should be allowed to do so. Those who oppose this scheme and who wish to pursue their role as an elected representative of an electorate, should be able to do so beyond the number of qualifying years if their constituents choose to re-elect them. As I said, there is nothing radical in the bill.

On 1 September 1997 the Senate Select Committee on Superannuation reported after an inquiry requested by the Senate in late 1996 into the appropriateness of the parliamentary superannuation scheme. The committee concluded that the scheme was out of step with superannuation practice in the wider community and it lacked transparency. It used terms like ‘inefficient’, ‘lack of portability’ and ‘non transferability’. It suggested that a possible solution was to make the scheme optional to the extent that every parliamentarian is a member until he or she opts out. Government members of the committee recommended, among other things, that upon taking office new members should be offered the choice of opting out of the parliamentary scheme in favour of a fully funded accumulation scheme or retirement savings scheme of their choice. I seek to have that extended to sitting members. Indeed, there would be substantial savings to the public purse to the extent that I or any other member or incoming member or senator opts out.

The Australian Labor Party members of that committee concluded that the Remuneration Tribunal was the appropriate body to make recommendations for the reform of the scheme. On 7 December 1999 the tribunal reported that it was satisfied that the remuneration package for senators and members—that is, salaries, superannuation and vehicle—is now competitive. However, the tribunal gave no justification as to why parliamentarians’ superannuation arrangements were considered appropriate, especially when, to the eye of the superannuation industry, I would suggest, and to that of many ordinary citizens, they certainly were not. I do not think the tribunal is the body to pass judgment on superannuation when it is prepared to go on the record with comments that endorse a superannuation scheme that is obviously so far out of kilter with community standards. There may be a need to review parliamentarians’ salaries and entitlements, but that is a separate debate. In that context, I commend to the committee the article by respected superannuation writer Daryl Dixon in the *Bulletin* of 26 June, and I seek to table a copy for your reference. That article was, incidentally, written in full knowledge of the recent amendments, which he describes as ‘bandaid’. He says:

... the parliamentary pension plan requires serious modifications to reflect the true actuarial costs of benefits. To achieve fairness between all MPs old and new, a restructure of current remuneration arrangements is required.

That is an issue that is somewhat outside the scope of this inquiry, I would suggest, although I would be surprised if it is an issue not touched on, given the scope of the 3,000-odd submissions, through which I have glanced. I also draw attention to a letter from Ted Mack in the *Sydney Morning Herald* on 25 May. He concluded by saying:

Only when politicians’ superannuation is on the same basis as the rest of the community will there be proper regulation of super funds.

I think that is a very pertinent point. This inquiry is essentially looking at a simple choice of superannuation issue. If it is good enough policy for the general community, it is certainly correct for its representatives. If the legislated superannuation guarantee contribution currently at eight per cent is good enough for all other ordinary employers and employees, it is certainly the correct guarantee for elected representatives and their employer, the Commonwealth.

CHAIR—You might like to table those documents.

Mr Andren—Okay.

CHAIR—Is it the wish of the committee that the documents be accepted? There being no objection, it is so ordered.

Mr Andren—Would you like this statement as well?

CHAIR—Yes, we would like as much information as you can give us. Mr Andren, thanks for that presentation. In defence of your criticism of Mr Humphry's endorsement of the current scheme, I refer you to the evidence that he gave this morning before this committee. My interpretation is that there was very little in his evidence that you would actually disagree with. It is his responsibility to administer part of the scheme, which comes under the ambit of a number of acts over which he does not have full responsibility or control. Before there could be any changes in terms of his constraints, it would be necessary to change the acts of parliament. The jurisdiction that he currently has is reasonably limited.

Senator SHERRY—I think he went further than that, Chair. Not only did he point out that he does not have jurisdiction, and in fact that he would like it, but he sees it—and I do not want to paraphrase him unfairly or suggest that I am quoting him—as inevitable that politicians' superannuation moves closer to the community norm; that is, SG. I think your criticisms of the Remuneration Tribunal, at least based on this morning's information, which is more up to date, are not correct.

Mr Andren—I was only making the point that I am not confident that it is necessarily the best body to make that choice or that objective assessment, given that it is already on the public record as saying that the overall package is adequate. In that, it is endorsing the current superannuation scheme. I would love to see the worth of politicians put on the table—all the entitlements, the whole deal—and not just concentrate on the basic salary, because I think we all know there are other things added in to that that should be on the table when we work out what that base salary should be. And from that, always only contribute whatever the legislated guarantee is.

Senator SHERRY—If you do not accept that the Remuneration Tribunal should do it, who should do it? Can I put this to you: I do not think we should be considering this bill today. Why should politicians be making recommendations on politicians' superannuation? It is wrong.

CHAIR—It was referred to us.

Senator SHERRY—I know it was referred to us. We had no choice. I think we should not be doing it. It should be dealt with by some sort of independent tribunal, whether it is the Remuneration Tribunal or not. Who would you suggest?

Mr Andren—I have suggested publicly that maybe we should have a committee chaired perhaps by a person of the eminence of the former Governor-General, with the superannuation industry represented, a lay person, perhaps a business person and an ordinary employer—an obviously transparent process. I am not saying that the tribunal are not transparent, but I do not think that they necessarily have the expertise. They are there for remuneration purposes—entitlements and so on—but I think we really do need a transparent assessment where we can put on the table the fact that we work 70 hours a week, that we are away from our families and that there are huge sacrifices. In anything I have ever done—and I know I have been accused of

attacking or smearing my colleagues—I have honestly attempted to try to achieve the same standards for parliamentarians as apply to the rest of the community. Until we reach that point, I think we are going to continue to have a very cynical—if not that, a sceptical—electorate.

CHAIR—Peter is picking up some of this committee’s recommendations of 1997.

Mr Andren—Exactly, and that is what I have done in my EM. I have pointed that out—that the recommendations are there on the public record; they are not my recommendations.

Senator SHERRY—But don’t you think, Mr Andren, that the Australian ethos is a healthy scepticism of all authority, including politicians? I think that is a good thing, frankly. I frankly cannot see that changing.

Mr Andren—No, but the situation, particularly now that we have attended to early access and have created a situation where those remaining are under the existing system, or the former system, and incoming ones will be subject to new rules, is a bit of a mishmash—

CHAIR—It is called grandfathering. It is not peculiar to the parliamentarians’ scheme. Grandfathering permeates the whole of superannuation and that is what makes it complicated.

Senator SHERRY—This is an important issue, and I explored it with ASFA. I do not know whether you are aware that general public servants receive a superannuation benefit which is considerably above SG. Members of the defence forces have what would be considered a generous scheme by community standards—and people in the private sector. There are certainly some people at management level, though it is hard to get the data; I was asking about that this morning. You are arguing for a community norm, and I understand your argument. Are you therefore advocating that people in the community should get only the community norm with respect to superannuation—that this should apply to everyone as a principle?

Mr Andren—No, what I am saying is that as representatives of the community norm—if you want to use that term—we should be subject to the same guarantee. It is like the argument about the adjustments of salaries—the MTAW and the AWOTE. The choice that was taken was that it was to be—I cannot remember which is the higher rate but it is the average weekly ordinary earnings, isn’t it?

Senator SHERRY—Male average weekly earnings—for pensions?

Mr Andren—Yes. So it would, I think, have sent a very good signal to the electorate had we adjusted our salaries to the same rate as the pensions are adjusted, in the same way as we should adjust superannuation.

Senator SHERRY—Yes, but you are putting to us—and I understand your argument about community standard—that the community standard of eight, the current SG, go to nine. There are other people in the community who receive benefit; some of them receive well in excess of SG. Why should that be allowed? If it is not good enough for politicians why is it good enough for anyone?

Mr Andren—We should be the first cab off the rank. If public servants have 11 per cent, I think it is 23 per cent—

Senator SHERRY—No, it is actually lower. It depends on the scheme.

Mr Andren—These extra guarantees exist, but I am saying that we as politicians do not necessarily align ourselves—again—with a contribution rate that is above the norm. The more we can show that we are in line with the same standards as apply to the vast majority, the more we do our cause exceptional worth. I think people would be prepared to accept the situation if we put our remuneration entitlements on the table and have a proper assessment because then all the good things would come out about the work we do.

Senator SHERRY—I accept that that is an argument. However, is there not another argument in respect of everyone in the community who gets above the community norm? There is a fiscal cost in an aging population. Why should taxpayers, the majority of whom receive only SG, either directly through politicians and politicians, or indirectly in the case of tax transfers and subsidies—so-called incentives—subsidise people in those circumstances? I am talking about everyone who enjoys a higher benefit.

Mr Andren—That is an issue which we should perhaps tackle on an issue-by-issue basis. The first thing that we should do as elected representatives is look after our own shop. We should get that right and set the same sort of standards.

Senator SHERRY—Why should we not get the whole system right?

Mr Andren—Of course we should get the whole system right.

Senator SHERRY—Why deal with it piecemeal?

Mr Andren—Let's do it all. I am saying that if we are prepared to get our own shop straight first, that sends a very positive signal out there to a community that is feeling more and more disconnected.

Senator SHERRY—On retrospectivity, do you believe that in respect of current entitlements, whether for politicians, public servants or military personnel, people currently in those schemes currently should be removed from them?

Mr Andren—How do you mean in terms of retrospectivity? Do you mean with the 55 access?

Senator SHERRY—You end them. You reduce the contribution benefit for existing members in existing funds. Is that the correct way to go?

Mr Andren—To eight per cent now?

Senator SHERRY—Yes.

Mr Andren—I do not know. That is a debate we should have. All I am doing with this bill is giving me, and anybody else who chooses, that option. Despite the amendments, which Dixon has described as a bandaid, the inherent generosity remains. There is an argument for the whole remuneration package to be looked at as a separate issue. At this point, anybody who feels that this scheme is overly generous has no option but to fall on their sword the moment they qualify. I want people to have the choice to stay in this business, if they are re-elected, under their own terms and conditions and under the same standards that apply to the majority of their electorate.

CHAIR—At this point, as chairman, I wish to distance myself from the comments about the generosity of the military superannuation scheme. Given the potentially hazardous nature of their occupation and the shortness of military service life, the comments appear analogous with arguments that suggest that retired defence personnel, including those who have been injured in hostilities, should receive no more than ordinary community benefits. I think that that is somewhat abhorrent.

Senator SHERRY—I think you have somewhat misconstrued my comments. I was pointing out that the current benefits in the military fund are in excess of community standards—

CHAIR—For a particular reason.

Senator SHERRY—Exactly, and we are not discussing the reasons for that today, and I agree with those reasons.

CHAIR—It effectively became caught up with the generosity of the parliamentarians' scheme and I submit that they are entirely different.

Senator SHERRY—I agree and I am on the record in terms of police and emergency services personnel. The point is how those additional levels are determined and whether there has ever been any assessment of what the level of benefit should be. In the case of public servants, the military, emergency service workers and politicians for that matter, there has never been an assessment to attempt to evaluate that worth that provides for an additional level of benefit. I am not arguing against an additional level of benefit for the military. I think that it is probably justified.

Mr Andren—Would you mind if I made a comment?

CHAIR—Feel free to do so. This is an open forum.

Mr Andren—The government's bill to adjust the access age contained nothing at all to address freedom of choice. I note the government has set aside \$14 million in the budget to promote choice of super for everyone else in the community yet there still seems to be no choice contemplated for MPs. We seem to be continually setting separate standards here.

Senator SHERRY—That is not law yet. There are two issues here, aren't there, Mr Andren? There is so-called choice—and the Labor Party opposes that by the way—and there is the level of contribution. People electing to join their own superannuation fund under the current SG is one issue that has an enormous range of problems associated with it, and I think you should read about it a little more. It is not a simple matter for people who are financially illiterate, for

example, to have to make a choice—and the committee has examined this in some detail. But that is a separate issue from the level of contribution.

The current government has a bill in respect of public service superannuation—it calls it choice for public service—but it is a reduction in their entitlement. The two issues are the so-called choice and the reduction in entitlement. This is a direct breach of the written undertaking the Prime Minister gave to those public servants at the 1996 election.

Mr Andren—I take those points, but I am saying that other schemes are subject to market forces—and we all think the market is the salvation—recession, building slumps and share movements, and we are shielded from all that.

Senator SHERRY—That is not correct.

Mr Andren—Certainly, the parliamentary scheme.

Senator SHERRY—Yes, it is a defined benefit fund, but there are many other defined benefit funds that exist in society: military super, the old public sector super and many private sector funds. I am not saying it is justified; I am just questioning the accuracy of your statement.

Mr Andren—I am only talking about the parliamentary scheme.

Senator SHERRY—Mr Andren, there is a good argument for defined benefit funds. I am not talking about the level of defined benefit, but a defined benefit fund confirms a pension or annuity rather than a lump sum. That may well be for the good of the country at some future date. We could argue about the level of the defined benefit and whether it is too generous or not.

Mr Andren—We can argue about that, but we can certainly argue that if the vast majority of our constituents' superannuation is subject to the vagaries of the market, which is promoted with such vigour as being where everyone should be, then we should accept that for our own entitlements.

Senator SHERRY—You are right in the sense that the vast majority of people, probably well over 80 or 90 per cent, are in accumulation funds which are subject to market return. Putting aside the issue of the level of contribution, it does beg the question concerning pensioners. The current pension is \$10,000 a year approximately; it is a clear benefit; it is not subject to the market; it is indexed. Putting aside the issue of the level, which I do not think is sufficient, it has certainty and stability. Do you think that is a good thing?

Mr Andren—Certainly.

Senator SHERRY—In the parliament on the last night of sitting we had an amendment about superannuation for same sex couples which at the moment is prohibited in law. What is your attitude? Is there any provision in this bill for same sex couples?

Mr Andren—No. It is not attended to, but I would imagine that, if that legislation were passed by the parliament, it would be included.

Senator SHERRY—Do you think it should be in there?

Mr Andren—Yes, I do.

Senator SHERRY—How do you think same sex couples in the rest of the community, who are not politicians and who do not enjoy that entitlement, would feel about that?

Mr Andren—It is the same as your choice of superannuation legislation that is held up in the Senate. It was pointed out to me in drafting this bill that we cannot be promoting choice of superannuation and passing it for politicians if we have not got it in place for the rest of the community. All I am saying with this bill is let's set the precedent. Let's set the standard for choice of superannuation—you have got reservations about the general choice of super—which I will look more closely at, but I do not think it applies in this case to parliamentarians.

Senator SHERRY—You mean the level of financial literacy, the problems associated with that.

Mr Andren—Yes. It may or may not, who knows.

Senator SHERRY—We are not inquiring into that!

Mr Andren—I know that when I first came into parliament there was a forum, economics for non-economists, and I think two members of parliament turned up, so they are obviously very literate.

Senator SHERRY—Surely, if you are subscribing to the principle of same sex couples' superannuation entitlements, that should apply to everyone in the community and not just politicians.

Mr Andren—Yes. I would like to see this bill go through. I note some of the points that have been brought up by the Department of Finance and Administration. I do not see—from what I have seen—any huge difficulties with the questions that they have raised. I have only looked at it briefly. I do not see any huge dramas there, but I would hope that the necessary adjustments can go through to enable that choice, and I would imagine that suitable amendments can be made to it at some point when the issue of same sex couples' superannuation is debated in general.

CHAIR—That may well be resolved by another bill.

Mr Andren—Exactly.

CHAIR—Why would members mathematically want to make a choice, as you propose?

Mr Andren—That would be entirely their own private position. Realistically, I would not expect many to take up the option but I think there would be others who would want to make their own arrangements. It was put to me this morning privately—I have not thought about it—that with the 55 access there may be those who might wish to salary sacrifice in the private

hat with the 55 access there may be those who might wish to salary sacrifice in the private market and make their own arrangements.

CHAIR—How can you salary sacrifice in the private market if you are an MP though?

Mr Andren—Maybe you want to make a higher contribution of higher than the guarantee.

CHAIR—That is not salary sacrifice.

Mr Andren—No, but you might want to sacrifice some of your salary.

CHAIR—That is not salary sacrifice. You have just made the point about what we are to salary sacrifice and I am saying that that is another option you are suggesting, because that is not part of your bill.

Mr Andren—No, it is not, but there may be those who may wish to make a higher contribution than they are required to make.

CHAIR—That is a different issue.

Mr Andren—Okay.

CHAIR—So if you are a hard economic rationalist, why would you want to go down the path you have suggested?

Mr Andren—Who said I am a hard economic rationalist?

Senator SHERRY—We know you are not, Mr Andren!

CHAIR—Most people in terms of their own entitlements certainly appear to take that approach. You are the exception.

Senator SHERRY—I think there are a lot of people in parliament who are not hard economic rationalists, Chair. I would not put myself in that category.

CHAIR—Other than for social or philosophical reasons—why would people want to adopt that?

Mr Andren—Because it is about the integrity of the political process. It is about the fact that we should not have in place, I believe, standards that we set for ourselves or are set for us that are different from those applying to the majority out there in our electorate, and it is as simple as that.

CHAIR—There is perhaps another way of looking at your bill, given the compulsory nature of it when it starts, et cetera. You have to belong to it, it is an act of parliament, et cetera, so there will be other changes. I am just looking at alternatives and exploring the different ways of approaching your bill in a fair and rational manner by way of suggesting that perhaps when the

MP or senator retires, should not the preserved component be an amount which is rolled over to an eligible retirement fund? In that way, I know it will cost the Commonwealth an amount of money because it is some unfunded benefit that it would have to fund at an earlier opportunity, but it does seem not unreasonable in an environment of increasing choice in our community, certainly when the MP or the senator retires, that that preserved amount should be able to be set aside and rolled over into an eligible rollover fund or its equivalent, to get the sort of choice that you are expecting, that you would like. Have you given that consideration? You might like to take a few minutes to think about it.

Mr Andren—If you could just run it by me again.

CHAIR—Your bill provides choice at the time of entry into the parliament.

Mr Andren—Or for those existing members.

CHAIR—Yes, that is right. I am suggesting that, given the statutory nature of the entitlement and other factors, as a first step wouldn't a more satisfactory approach be that when the person retires that amount which is preserved be available to be rolled over into an eligible retirement fund as it applies in the rest of the community?

Mr Andren—Right. But I wonder whether the notional contribution—

CHAIR—That would have to be cashed out and paid when a person retires.

Mr Andren—But the generosity of that notional contribution, how do you adjust that to put it in line with—

CHAIR—It would have to be actuarially cashed out. The point is that it is a fixed amount; it is only increased by CPI. The complaint comes from the public sector. Because of the increased mobility within the public sector nowadays, people feel that they are disadvantaged in that they do not have the opportunity of rolling that amount out into an eligible rollover fund and thereby all it attracts is CPI. They feel that that preserved amount is sitting there losing value, compared with people in the rest of the community who have the opportunity to get interest and some sort of entitlement as a result of the earnings of that money. The earnings are not there apart from a recognition of a CPI adjustment. That is a public sector wide concern, which we have some sympathy with.

Mr Andren—You are suggesting that—

CHAIR—No, I am just putting it to you.

Mr Andren—If we did the same with ours, you would then have the anomaly of those other public funds not being able to do so.

CHAIR—Maybe this one would lead us somewhere to bring about change.

Mr Andren—Maybe we need to adjust those at the same time as we did that. I accept that that is basically what I would be proposing.

CHAIR—From here on in—I am not sure if you have done the numbers and whether you expect this issue to be picked up—in terms of maintaining your strong position, how in future do you intend to discharge your honour so far as the community at large is concerned? Are you going to donate it to charity? What are you going to do with the excess?

Mr Andren—I might die in office.

CHAIR—That is contrary to what you said earlier—you believed that you were not there for the long haul.

Mr Andren—I said that I am not going to access this superannuation scheme. That is what I have said.

Senator SHERRY—And according to the evidence that we received—not from you—that is possible.

CHAIR—So the amount that you would be entitled to would be paid into consolidated revenue, as far as you are concerned?

Mr Andren—The amount that I am entitled to?

CHAIR—Yes, if you retire. I am trying to work out how you intend to pursue your very just cause.

Mr Andren—My position, my honour, my whatever, will be protected, I can assure you of that, and I have thought long and hard about it, but I do not see any need to put it on the public record. I am an individual—

CHAIR—Of course.

Mr Andren—I have introduced this as a matter of—

CHAIR—Do you intend to write to the Parliamentary Retiring Allowances Trust indicating that you now do not wish to access it?

Mr Andren—Again, I am not putting on the record what I will do about that. That is between me and the Superannuation Trust.

CHAIR—Of course.

Senator SHERRY—I think that is a bit premature. Mr Andren has not reached the minimum qualifying period, so there is no entitlement. We accept Mr Andren at his word.

Mr Andren—It may be that I might determine it when I will technically qualify if I lose at the election after this.

CHAIR—There is a supplementary allowance, though, that he is entitled to, even though he is not entitled to the pension.

Mr Andren—One and one-sixth, yes.

CHAIR—Yes, and you would access that, of course?

Mr Andren—Yes, I imagine that that is an actuarially determined amount that reasonably represents what my pre-existing Prime Television superannuation would have been earning in the marketplace, is it not?

CHAIR—I do not think so, no.

Mr Andren—How much more generous than that is it?

CHAIR—I think it is an arbitrary determinative amount. We might have to call the actuaries before us, or it might involve looking into history.

Mr Burt—I think it is looking into history.

Mr Andren—It may be that I plough on through the election after this, take the risk of qualifying, knowing what my level of support might be at that point, at which point I would imagine the next hurdle would be less than 12 years, would it not?

Senator SHERRY—If you voluntarily retired, yes.

CHAIR—If you retired voluntarily or were defeated at an election.

Mr Andren—I will have to think about it in the term after this, and maybe not until the one after that. That is a long way down the track.

CHAIR—Given that we are on the public record and that this is a very important public issue that you have raised, people are interested in it in terms of where people are going.

Senator HOGG—There is a constitutional issue here. In respect of the superannuation surcharge tax, which applies to federal politicians—I have no problem with it—in terms of the states and territories, because they are constitutionally protected, I understand that at this stage the superannuation surcharge tax applies only in Western Australia and Tasmania.

Senator SHERRY—I am sorry, I was referring to the SG. They pay the tax, whether constitutionally it applies or not.

Senator HOGG—It was my mistake. There may be a problem in terms of states and the piece of legislation that you have put to us. Not all the states have picked up the surcharge tax,

or if they have, they have picked it up in one form and paid it out in another, which has not occurred at our level.

Mr Andren—I would have assumed that the tax would have applied to all state and federal—

CHAIR—It does apply to everybody, but I think there has been a reimbursement, I understand—

Senator HOGG—That is what I am saying.

CHAIR—but that is not at the Commonwealth level.

Senator HOGG—It has not occurred at the Commonwealth level.

CHAIR—Of course, there would be tax consequences of that.

Senator HOGG—What are the consequences of your legislation, should it be passed, given that there is no obligation on the states, as I understand it, to pass comparable legislation for their politicians?

Mr Andren—I will have to take advice on that. I will note those comments in the *Hansard*.

Senator HOGG—Have you received any support or inquiries from any state or territory jurisdiction in respect of this legislation?

Mr Andren—No.

Senator HOGG—But I am correct, am I not, in believing that they are constitutionally protected and that your legislation could not apply?

Mr Andren—If that is the case, then obviously that would be so. I guess the onus would then fall on the states to adjust it according to how they saw the need.

CHAIR—Your legislation only affects the Commonwealth scheme?

Mr Andren—Yes.

Senator HOGG—Yes.

CHAIR—Whether the states wish to pick that up is up to them?

Mr Andren—Yes, exactly.

CHAIR—What the states do, however, is look at the base remuneration and have some relativity to that, in terms of the packages they offer, but in terms of allowances and other issues there is no linkage at all.

Mr Andren—While we are on constitutional issues, I did have some advice from a senior legal person from Western Australia, who suggested that the whole parliamentary allowance system as it has evolved is quite unconstitutional. I could not go into detail, but the fact that it was only ever determined under the Constitution as an allowance and has evolved into a salary, superannuation and so on means that it has evolved unconstitutionally. That is an interesting point from someone who had a bit of spare time.

CHAIR—A lot of these issues have been raised before; they were raised in the surcharge debate. These issues have been put time and time again before Attorney-General's, and they have refuted the allegations.

Senator SHERRY—I do not think there is much doubt that with respect to superannuation, particularly a pension payment, the Commonwealth clearly does have power. With other allowances, it may not—I do not know; I am not a lawyer—but we have certainly looked at the issue of the Commonwealth's power in respect of superannuation on a number of occasions. There are a number of heads of power but one of them is the pensions power. It does raise the question, if superannuation is an accumulation of a lump sum, of whether it is a pension, which is an interesting constitutional point. But there are other heads of power as well.

Mr Andren—I might provide that opinion, and I am not a lawyer either, for you to have a look at. I would be interested in doing that at some point, just informally.

CHAIR—There is a witness this afternoon who has put that very same point. Thank you for appearing before our committee today. We will send you a copy of the *Hansard* record.

Senator SHERRY—We thank you for driving down.

Mr Andren—Thank you, senators.

Proceedings suspended from 11.38 a.m. to 12.57 p.m.

BAXENDELL, Mr Noel Cedric (Private capacity)

COOKE, Mr Peter (Private capacity)

KERRY, Mr Ben (Private capacity)

McFADDEN, Mr John David (Private capacity)

MARCHANT, Mr Glenn William (Private capacity)

MEAGHER, Mr Denis (Private capacity)

WILDMAN, Mr John Howard (Private capacity)

CHAIR—I thank the witnesses for appearing before the committee. We invite each of you to make a short opening statement, following which we will ask you questions. The questions will follow your combined presentations. Mr McFadden, do you wish to make an opening statement?

Mr McFadden—Yes, thank you. I made a submission based on what I saw as inequities between the scheme that was available to politicians and the scheme that was available to the public more generally. What I saw in front of me by way of a bill to amend the parliamentary things perpetuated the inequities and, in my view, actually increased the benefits and drew them further away from the private sector.

The reasons back in 1948 for the Chifley government to introduce parliamentary superannuation, I think, are long past. The private sector works just as hard, with just as long hours, as politicians do, and I do not believe that the same privileges are being afforded to those of us who contribute to superannuation schemes voluntarily for 38 to 40 years, et cetera. We walk away, in fact, with less than is available to a politician who is elected for a term of government. It is my view that in this day and age superannuation schemes that are available to the general public should be available to parliamentarians. There should be a superannuation guarantee levy paid by the parliament, and I mentioned in my submission that there is nothing wrong with the government adding one or two per cent above the minimum. However, it should be optional for the parliamentarian to voluntarily contribute—or to take as a package deduction from their own remuneration packages—things to top up and therefore manage their own future, relative to reasonable benefit limits, et cetera. I do not believe they should be exempt from contributions tax, surcharge levies or any of those things that we have to bear ourselves.

CHAIR—We understand that the other witnesses are on the teleconference line. We have just commenced proceedings. Mr John McFadden has just made an opening statement; and following that the other witnesses who are present will make opening statements. There will be a number of questions and then we will ask the people on the teleconference line to introduce themselves and make a presentation, and then we will ask questions separately. I think it might be more manageable if the witnesses who are present conclude their evidence and questioning

before we proceed to hear from the people on the teleconference line. Mr McFadden, do you have any further comments to make?

Mr McFadden—I would like to conclude by saying that the greatest concern to me is what I call apparent reform. I believe the terms of reference are so restrictive as to preclude proper appropriateness tests. It was an introspective view that could only come to one conclusion, and that was to actually improve the lot of the politicians and ignore the real issue, which was the inequity between the schemes available to politicians and those available to the general public. I made three distinct recommendations in my submission. I endorse those now. I believe there should be a phasing out of the current scheme and a full migration to an open and freely available private scheme in the ordinary private sector. That would induce the level of competition and public benefit that Professor Fels sees.

CHAIR—Thank you. Mr Wildman?

Mr Wildman—Good afternoon, everyone. My reason for making a submission was based on the premise that politicians are just another branch of the Public Service. I have therefore endeavoured to compare the careers of our family in the administration of government with politicians. My wife and I, and both our fathers, gave a combined 120 years of devoted, faithful service to the governments of New South Wales from 1923 to 1987, in the departments of police, agriculture, and education. My own father's devotion to duty cost him his life a few days short of my fifth birthday, and my incorruptible father-in-law was asked to leave the vice squad.

Long working weeks are not confined to politicians alone. My wife spent many hours each week at home doing lesson preparation, setting exam papers and assignments and marking them, her reward being student results in achieving the Higher School Certificate. I was an area supervisor of rural youth clubs. I worked from 8 o'clock until late in the afternoon and I attended up to four night meetings a week. Eleven o'clock was an early night. These meetings involved driving up to 140 miles for the round trip. The longest distance I ever drove was 360 miles for the night. We reached the top of the salary scales available to us in the country, as head office in Sydney was the alternative. Combined, my wife and I gave 72 years of service to the state. We paid and took the maximum compulsory superannuation. We were advised at the time of retirement to take a lump sum, which netted us \$276,000. We did not enjoy a 69.1 per cent Treasury contribution top-up.

I reached the top country position at age 26 and retired from that position 31 years later. From the mid-seventies I went through the popular political pastime where change was initiated for change's sake, followed by a restructuring and downsizing of departments and on three occasions being told, 'Your position is being advertised in this week's Public Service notice.' If you did not come out a winner, you had the choice of being shunted around the state willy-nilly, or resigning. Your super was preserved until age 55. Several of my close associates did not win selection and they had no choice but to resign because of their family situation. They had to find another source of employment and then had a 20-year wait for their super. Redundancy payments were unknown then, and this was pretty rough justice for loyalty to a department.

Many of us turned down lucrative offers in private enterprise in the 1950s and 1960s—we were a tight-knit group, we liked our work and had loyalty to the department. Many of us carried the load of two districts due to staff shortages. In today's climate of job uncertainty,

failed businesses not protecting employee entitlements and forced redundancies without payment, the average PAYE taxpayer has every right to be cynical of politicians who, by their apparent sheer arrogance, appear ever willing to isolate themselves from reality and the rules they make for others. That is not a recipe for respect or popularity. No other sector of the work force has its benefits guaranteed by legislation and so heavily funded by the taxpayer.

A feature on page 8 of last week's *Weekend Australian* highlighted federal politicians' superannuation. Generosity of this magnitude cannot continue. If politicians' super were brought into line with that of the rest of the community, they might better understand the uncertainty and the reality faced by most of us as we strive to achieve an adequate income for retirement. Superannuation perks and allowances should not act as compensation for inadequate salaries. By all means, raise salaries and bring super into line with community standards; have limits set for various allowances and claim reimbursement for official expenses incurred. This is normal Public Service procedure; I had 37 years of it. This would then eliminate the plethora of perks and allowances which, at present, are complex, opaque and difficult to scrutinise and audit. By making changes to superannuation so that it conformed to everyday standards, politicians would demonstrate an honest desire to regain community respect and not wear the label of 'in the trough together'. Thank you.

Mr Baxendell—Thank you to the committee for inviting me and for their generosity in reimbursing my air fare. I have to begin with the question: why would any apparently sane person give evidence to an inquiry into parliamentary superannuation? I suspect that my daughter is partly correct when she says that it is probably because I do not have a life. What actually prompted me to make the submission was the coverage of this issue on *A Current Affair*, the very widely viewed TV current affairs program. I was prompted to make a submission because I realised that that program would prompt many others to make a submission, and a lot of them would, in fact, be very negative about the benefits that parliamentarians enjoy.

In some ways, the line taken by *A Current Affair*, and perhaps by some other people, is very counterproductive. It is saying to people that all politicians are crooks and that politics is run by politicians for their own benefit. It is telling young people in our society, and society generally, not to get involved in politics—it is not worthwhile and nothing can change—just accept the free market, accept things as they are and forget about your life. Admittedly, the superannuation scheme for parliamentarians is very generous but, in the scheme of things, it is really a third-rate issue. People are more concerned about the quality of politicians, the poor quality of service they receive from their politicians and the fact that politicians are remote from their own interests. They are the issues that should be addressed. Superannuation is such a side issue that I suspect it would fade if the parliamentarians got their act together and worked to benefit their constituents and to really run the country the way it should be run.

Superannuation, in a way, is a backdoor method of upping the salary of politicians. I agree with Peter Andren when he says that it would probably be better to raise politicians' salary packages as a whole rather than using backdoor methods of allowances and overgenerous superannuation. In the end, we want better quality politicians—the country is crying out for that. We have a very good country that should be able to deliver very high standards to all of its citizens, and we do not have that. We have job insecurity, people who are disillusioned and all these sorts of things because we do not have politicians who stand up for the people in their

electorates. It is counterproductive and counter intuitive to try to reduce the salary of politicians if we have such a bad lot. Thank you.

Mr Marchant—I think this Senate inquiry has a unique opportunity to turn things around for politicians in this county and to show some leadership, particularly for young people. One of the things that struck me about the current scheme is the way that it is actually skewed out of kilter in regard to the general community. I would recommend very strongly to this committee that from 1 July 2001 superannuation payments get put into line with current community expectations. I am talking about things such as the current access to superannuation immediately on leaving parliament. I believe that needs to be put up to at least 55 for people who are over 36 years of age.

CHAIR—There is an amendment that has gone through the parliament.

Mr Marchant—Also, I believe the 69 per cent top up is way out of kilter. I am looking at a recent article in the *Australian* which says that the current crop of politicians will cost taxpayers \$47,558 million. When you are talking about accountability, one of the tenets of a democratic society is that the rule of law needs to be applied equally and equitably across the community. If you are to give people confidence in the democratic process and in our politicians, that needs to be brought back into line. That kind of cost blow-out, which has implications for state parliaments, local government and the corporate sector, is way out of line with community expectations of what a superannuation scheme should cost.

One of the arguments for a generous superannuation scheme is that you will not attract people into politics unless you have something like that. If that is the reason people are going into politics then we have lost our whole direction of why people should be going into politics. I believe there are generous remuneration packages and all kinds of things for politicians, and that kind of superannuation payout is simply not credible in today's community.

In a representative democracy, our representatives really need to be seen as people who are accountable and whose superannuation scheme is both transparent and in line with community expectations. As I said, politicians who are under 36 years of age should not be able to access it until they are at least 55 or 60, and the top up needs to be reduced from 69 per cent to eight per cent in line with other government departments.

CHAIR—I might change the arrangements I announced earlier and invite the people who are at the end of the teleconference to make a short presentation, as each of the witnesses currently before the committee in Sydney has done. We will have questions to everybody right at the end.

Mr Cooke—I am a retired state servant, now acting as a small business consultant, most of the time to government. I would like to add only a few comments to my presentation to the committee. They are relative to the other submissions which the secretariat forwarded to me. The consistency is quite remarkable. The issues raised are: job security—that the same sort of job security should be available to the public as politicians claim for themselves—the lack of credibility of politicians; equality of conditions of superannuation between politicians and the rest of the work force of the country; drawing down at less than 55 years of age; the gross generosity of the scheme; all the associated perks; how un-Australian it is; and it is a relatively high salary and politicians are supposedly representatives of the community, yet they show such

massive disregard for the community in relation to the conditions of a superannuation scheme of their own design.

I just heard a reference to the unfunded liabilities of the superannuation scheme. From the parliament's web site, the schedule of senators and members by length of service is evidence of the sorts of numbers that are probably going to be required to support it. At July 1999—two years ago—there were four members with more than 25 years service: Ruddock, Cadman, Howard and Sullivan. That is going to make a massive draw down—incredible numbers. And there is quite a list of people who have about 20 years of service. For 25 years of service I got about one-third of a million dollars. Even if I had increased my contributions to 11 per cent, I could never have achieved the sorts of numbers that politicians who leave after six, seven or eight years of service achieve. They are drawing fabulous sums of money.

Mr Kerry—I am 28 years old. Maybe I am a youth; I am not quite sure. I am self-employed and I previously worked as a investment consultant for a firm called William M. Mercer. What has already been said is probably more than my thoughts, but I just want to make a few quick comments. I see the function of superannuation being to provide an income or an asset which will provide for income at the point of retirement. The government have decreed that they consider the point of retirement being the age of 55. That is fine for everyone. I do not think the current parliamentary scheme is in the spirit of or in keeping with this decree they have given the rest of us. There is no onus on the member to use these funds for retirement at all. Additional income can be earned, and certainly has been earned, by members who move off into the corporate or commercial life.

I think the super scheme should not assume the role of a sweetener for payment for services rendered or for doing the work. A fund, whether a defined benefit or accumulation in style, is linked to a person's salary or remuneration, whether when you retire you receive a percentage of your final average salary or, with an accumulation style plan, your contributions are linked to your salary. The super payments should not be used to top up these perceived irregularities in your rate of pay. If you believe you are worth more for your services then I think the focus should be on increasing the salary component, and the superannuation benefit will flow out of this.

I do not see the role of what we define as super being to provide a golden handshake or a one-off payment; it should be to provide for retirement income. That is the whole philosophy of the superannuation system. Somewhere along the way we have manipulated that ideal and we are giving ourselves a payment without taking away our right to earn income. I do not think it necessarily follows that, if you do not have generous superannuation, there will be fewer candidates. I would guess that the generous superannuation payout would be more likely to facilitate the removal of deadwood from the system and make it a lot more palatable for members who lose preselection to swallow the fact that they have been gotten rid of—or whatever capacity in which they take this payout—and be a lot happier for it.

We have to show transparency and we have to be consistent. I think consistency is the word. I agree with Mr Cooke; it is amazing. When you read the submissions you see that the trend is exactly the same but the words used are different.

Mr Meagher—I am here because, about a year or so ago, I wrote a paper which was published in a law review in this state—I am a legal practitioner. The committee now has before it a version of that paper. Perhaps I could expand on that paper for the benefit of those who do not have a copy of it. In the paper I set out the results of my investigations into the basis under the Constitution upon which might rest the scheme, which was brought in in 1948, to provide a pension to those who once were federal ministers, senators and members of the House of Representatives. I wrote the paper because I could find no material in any law journal or textbook, or any decision of the High Court for that matter, that had touched on this subject or even on parliamentary allowances in general. In my research, the material I looked at included the constitutional conventions way back 100 years ago—from 1891 onwards. I looked at the 1948 legislation by which federal parliament brought in the pension scheme in the first place, which is with us in an expanded form today, and the High Court authority dealing with the interpretation of the Constitution generally.

The conclusion that presented itself to me was that the scheme has always been invalid. Our Constitution simply gives no power to the federal parliament to enact that a pension shall be paid to those who once were, but who have ceased to be, part of the parliament. Indeed, the Constitution itself provides for the actual time during which senators and members are serving as senators and members for the payment which is to be made to them then, and it provides for a specific kind of payment. Provision of that specific kind of payment in the Constitution serves only to emphasise that, once senators, members and ministers cease to be senators, members and ministers, the Constitution makes no provision for any kind of payment thereafter to be made to them. They then cease to be part of the legislature or the executive. It could be said that they become citizens like the rest of us. Our Constitution gives the Commonwealth no power to enact that any money, howsoever late, shall be paid to a senator or member other than for while they remain a senator or member of the House of Representatives.

Let me summarise: where parliament is given no power to enact a law but has done so, the High Court has often stated in judgments striking down such a law that a statute is invalid in respect of a subject in relation to which the Commonwealth parliament has no power to pass laws. In this regard, the statute that gave rise to pensions back in 1948 is like a few others enacted during the mid-1940s and early 1950s. The High Court judged them to be invalid for exactly the same deficiency—namely, that the Constitution provided no power to enact them. Examples are the Pharmaceutical Benefits Act 1944, certain provisions of the Banking Act 1945, the bank nationalisation act of 1947, and the Australian National Airlines Act 1945. Of course, the other one that comes to mind is the act that was designed to outlaw the Communist Party, and that act was brought in by the Menzies government in the early 1950s. Those acts of parliament were brought in at the same time as the pensions act was brought in. Someone took a shot at those acts at the time, for obvious reasons: when you think of the name of them, there would be somebody who would not want them to stand. But no-one has ever raised or contested the validity of the parliamentary pensions act in any court. That, to my mind, is why it still exists. That is what my paper was basically all about.

CHAIR—Thank you. Mr Marchant, unless there is a breakdown of the very strong influence of the party system, I think it is unlikely that we will see your ideas being implemented, certainly in the short term. What concerns me in terms of your proposal is that I think it will perhaps perpetuate or accentuate the divide that is in society at the present time, whereby it appears the very rich are getting richer and the very poor are getting poorer. If we adopt your

proposals, it will attract to the parliament those who have got very strong independent means or those who have very little, in order to pick up something there. Would you like to comment?

Mr Marchant—I disagree that it will attract so-called people with independent means. I think the salary package—

CHAIR—The question is: what impact would limiting the package to parliamentarians have on the quality of our representation? I think that is the issue for those on the other end of the telephone.

Mr Marchant—I do not see it as a problem. I think people will go into politics for all kinds of reasons, obviously, but I do not see that it will impact on the quality of people going into politics. I put it to you again that if the reason people are going into politics is that the superannuation package is so attractive, then that is the wrong reason. I would argue that. Politics for me is about a balance between adequate remuneration and civic duty and civic service to the community in upholding democratic ideals.

Senator HOGG—One of the things that disturb me in the discussion about all of this is—

CHAIR—Could you direct a question to a particular person, please?

Senator HOGG—I will. I am just making this point by way of preface to my question. People use a lot of generic terms like ‘politicians’, ‘community standards’, ‘community expectations’, ‘transparency’ and so on. Where do you find definitions of the things that various people talk about in loose terms? For example, Mr Marchant, you spoke about community expectations. What are community expectations in terms of superannuation, not only for politicians but for the broader community at large? It does not rest with politicians. Are you talking purely and simply about the superannuation guarantee? When you talk about community expectations, are they different from community standards, because as my colleague Senator Sherry pointed out earlier in the proceedings today there are different standards in terms of the corporate sector, in terms of the public service sector and in terms of certain military service. What standards are people clinging to, or is it just a broad generic term that people are using that serves a very helpful purpose in trying to pursue the debate?

Mr Marchant—I have two points. There is an ageing population in Australia that everyone knows about and the potential is dynamite there for all superannuation schemes—granted. On community standards, I would go back to the principle of what a democracy is. To my way of thinking, a democracy means that the rule of law needs to apply roughly equally to members of the community. Granted, there are differences between military and so on. I can see your point. But I think that the 69 per cent top up is way out of kilter with community expectations.

Senator HOGG—I accept that, but this is part of the difficulty of the debate that we find ourselves in. If we accept that what you say is correct about the 69 per cent, what is the difference then between the community standard and the community expectation? I would put it to you that the community expectation, in terms of what politicians should receive by way of remuneration, is the lowest common denominator. I am quite serious. If you talk to an age pensioner, they will say that a politician should be paid what they are paid. If you talk to someone who is unemployed, they will say you should be paid what they are paid. I understand

the reasoning behind people adopting positions such as that. What I am trying to get is some definition of what the community expectation might be, as opposed to the community standard. Given that even within the community standard a number of different standards apply—and I have no problem with people being dragged to the one standard, provided that it applies to everyone—how is one going to apply that standard? Can you help me out with that definitional problem?

Mr Marchant—Sure. What about an arbitration commission to set politicians' salaries and superannuation? I have to go through that. I would love the teachers federation to be able to vote a salary increase for me or to top up my superannuation at 69 per cent. That is just not going to happen. So what about an arbitration commission for politicians?

Senator HOGG—That is our position.

CHAIR—Would any of the other witnesses like to comment on that issue?

Mr McFadden—Yes, I would like to take on this particular question. What you are looking for in your questioning of my colleague is perhaps a quantification in dollar terms. I like to look at things more in principle terms because the quantification is a variable dictated by the point in time current to the environment. So let us look at the environment. When this act was passed in 1948, Australia had just come out of a depression and a world war, and there was a flight to quality occupations by many people, including in the banking sector and the insurance company sector, all of which had superannuation schemes. People were looking for stability. Obviously the rationale of the Chifley government was that, in order to take people away from that mental attitude and bring them into a volatile area such as politics, you needed to provide something. We have all heard the history, and so I am not going over that.

What I will go over is that we have the baby boomers. The age 55 retirement was created to get rid of people at the top to create jobs for the baby-boomer swell coming up underneath. We know that the taxation laws and the superannuation laws are now recognising that this country is going to get swamped by people like me. I am a baby boomer: I turned 55 and retired for a variety of reasons. But, because I was in an occupation where I was able to contribute to a superannuation fund from the day that I entered the work force, that was fine. I had a stable occupation. What has happened now is that the particular occupation I had has undergone several reviews of its superannuation scheme. I was in the defined benefits plan; that is no longer available to current employees. It was only the dinosaurs, such as me, who had that expectation of womb-to-tomb employment—but that no longer exists.

People no longer go into a career such as the military; they go into a job. I believe that parliamentarians are in a job. If they can turn it into a career through good performance, fine. With all of the superannuation schemes now, which are allocated pensions and accumulation schemes, you can select from a variety of risk profiles to match your own degree of ambition relative to superannuation, but they are all fairly common in that they are not defined benefit anymore; they are market related, and you contribute to a scheme. They are transportable; they are fully portable from occupation to occupation. All I am asking for is my community expectation—and I support Mr Marchant's call for the force of law to apply equally—that the schemes that parliamentarians have are these retirement savings accounts, the accumulation schemes. Indeed, go for an allocated pension where you have the availability to pick and choose

the scheme you go into. You can select your own risk profile, whether it is full of international shares or whether it is full of government maturities and those types of things. So I think the expectation is that you have competitive equity between employment and a recognition that a job is a job.

CHAIR—Could we have a comment from the people on the telephone conference please?

Mr Cooke—I thought the committee's questioning about community standards and community expectations was part of an argument not to draw a solution but to obfuscate. The corporate community is just starting to come to terms, I believe, with some of the major issues that are now grist for the media mill, such as HIH and two senior members of the company there awarding themselves very grave sums of money indeed. There was a case on *AM* this morning of a member of the federal parliament that sounded just a little dodgy. Community standards and expectations are starting to say, and the corporate sector is starting to respond, that it can no longer continue to operate in the way that it has been doing and building on for the last 10 or 20 years. It is now having to bring in environmental, community and social responsibility bottom lines, not just a financial statement any longer. Therefore, I think to ask whether it should be the same as superannuation schemes for the police, the military, the corporate sector or the Public Service—either for the Commonwealth or for any one of the states or territories—is merely obfuscating and drawing hairs across the trail. I would like to see parliamentarians understanding that there is an acute awareness by people like ourselves, who have made contributions to this, that says, 'We are going to have to do something really serious about it to bring us more in line with the general work force out there, not the Jodee Riches, but more in common with the work force that is out there.'

The fact that there are variables in that is relatively normal, but there are none that are so generous—other than in the top end of the corporate sector—as a 69 per cent taxpayer top-up. Just remember that this is not your money; this money is paid for by taxpayers. Therefore, it is community money; it is social money. Really, a generous scheme like this is merely a tax transfer to taxpayers throughout the nation.

CHAIR—I have a comment to Mr Denis Meagher. Ever since our committee was formed in 1992—when I think the present deputy chair, Senator Sherry, was chair of the committee—the constitutional issue has been raised on many occasions. So the issue has been well canvassed in terms of the constitution.

Mr Meagher—I am having difficulty hearing you.

CHAIR—The constitutionality of these issues has been brought before our committee many times. We have received extensive advice and, in terms of the authority, it really goes back to both the pension power under the constitution and the corporations power but, suffice to say, I do not think it is going to assist us perhaps in going through those arguments in any great detail. But those issues have been canvassed in terms of the constitutionality.

Mr Meagher—I would very much like to see a copy of any submissions that were put before the committee from 1992 onwards. I have never heard yet of one argument which could be used to substantiate the validity of the act.

CHAIR—Right. Thank you.

Mr Meagher—In other words, there is no doubt whatsoever that the act is totally invalid and always has been. I would like to see, out of sheer curiosity—

CHAIR—We respect your opinion, but we beg to differ.

Mr Meagher—Please, let me have a copy of those documents.

CHAIR—Yes, no problem. We have agreed to that.

Mr Meagher—Could you just tell me now who wrote them, so we can have that for the record? Do you know that?

CHAIR—I am sorry, I cannot tell you. We would have received thousands of submissions over that time, and just off the top of our head we cannot put a name to a submission on constitutional power.

Mr Meagher—Do you mean somebody actually wrote you a submission saying, ‘We believe the scheme is valid’?

CHAIR—Yes. We will give you a copy if it is available.

Mr Meagher—It is quite remarkable that somebody would go to the trouble of doing so. Can you locate a copy of that document?

CHAIR—We will do our best to locate it. It goes back over many years. I would like to go to another issue because the constitutionality one—

Mr Meagher—It seems to me quite useless of you to call me here today to simply say that to me—to say that you do not agree with me and that you believe, somewhere along the line or somewhere in the past, that someone said something to the contrary. I feel like my time has been wasted. I am sorry, I must leave this conference now. If you were going to say that to me, it could have been done in writing months ago. I must close off.

CHAIR—I am sorry, but the matters had been canvassed at the highest authority. Senator Sherry, do you have the next question?

Senator SHERRY—Yes, and this is really a question to all of you. I want to follow on from the question that Senator Hogg posed. There is a general view that the community standard is SG—eight per cent going to nine per cent. There are two strong arguments for that applying to everyone. Firstly, there is the fairness and equity argument of why anyone should get a superior benefit to that. Secondly, there is the cost argument of the ageing population and how society, through tax transfers or higher taxation, can afford it. So there are two strong arguments, and some of you have touched on those. What I put to you is that, except perhaps in the case of the military where I can see some valid reasons—but that is not for me to determine—shouldn’t the community standard be what is paid to everyone? In other words, why should we continue to

pay superior superannuation to public servants, judges and teachers? Why should we as a society continue to accept that certainly those in higher income management in the private sector receive what is effectively a massive tax transfer to fund their higher superannuation? I must say that it is hard to find out. I have asked what the figures are, and it is very hard to get some figures for the private sector. I would like your response to that proposition.

Mr Baxendell—Firstly, in the past a lot of people—politicians and also public servants would be in this group—would, in fact, have traded higher superannuation payments for lower salary. That is the first point that needs to be borne in mind. Secondly, the eight per cent superannuation guarantee is really only a minimum and, in a sense, we have an ever decreasing system of minimum award protections. They have always been seen—rightly so—as a safety net, as a minimum. I think that the superannuation guarantee should also be seen as a minimum because eight per cent would not be enough to provide for anyone’s retirement. It is generally acknowledged that the eight per cent is far too inadequate to provide for a comfortable retirement for anyone but the very highest paid, where the eight per cent of their salary would amount to a considerable amount of money. Even for middle-income earners, eight per cent would not be anything like enough to provide for an adequate retirement income, regardless of how it is invested. That gets back to the points that I canvassed in the submission I made, in the sense of the public’s anger at superannuation for politicians. They have to be careful that that does not turn around and bite them and that it is used to take away their conditions. The example is also in relation to public servants and even people in the private sector who are on better than average superannuation schemes.

The very pernicious aspect of the Andren bill is that people can be asked to voluntarily opt for a system which is far against their own financial interests—in other words, when politicians come to stand for election they will have pressure put on them to opt away what were previously their entitlements. In a sense you can say that that is not a bad thing, but the only people who will opt away will be those who are in a close contest. Senators who are number one on the ticket or those in safe seats will never have pressure put on them. I think what will happen in time is that it might become acceptable for employers to put pressure on their own employees to voluntarily do away with some of their entitlements too. That will come back and bite ordinary people who cannot afford to have anything taken off them.

CHAIR—Mr Wildman, would you like to make a comment. We want to involve as many people as we can.

Mr Wildman—I have been out of the work force for a good number of years now. I am certainly away from all the different types of schemes that are available, and I know that superannuation is almost impossible to keep up with, what with all the changes that keep on being made. I am 71 now and I base my background on a scheme I had to join, the state superannuation scheme. As far as all our family were concerned, it was a good scheme. I do not know who designed it, but they were powers better at figures than I am and it served us very well.

Admittedly, we did not get terribly high salaries in the service, but our superannuation scheme, which was about a fifty-fifty partnership between the government of the day and our own contributions, gave us some security in life. I guess this is why a lot of us did not go to outside employment when things were great in the 1950s and 1960s and various agricultural

firms were begging us to join them—I was in agriculture. We stopped with the service because we grew up with superannuation, as my parents did, and it served us well. I cannot talk about all these other schemes now. I think that if the federal politicians had a similar sort of scheme to what we had then maybe it would all settle out. There is a variation between the state scheme and the Commonwealth Public Service. They had variations too and there are variations all over the place, but we are happy with ours.

CHAIR—Mr Ben Kerry, would you like to comment on this issue.

Mr Kerry—I am self-employed, but I have worked for an employer. I never came in contact with an unfunded scheme. It was very unusual for us to have a non-taxed benefit when we were paying out a benefit. Basically, we dealt with fully funded schemes. Some of those schemes for corporate Australia were generous, but the money was being shovelled away religiously—our funds were, anyway. I am not sure what other funds are doing. There was a funding issue. The benefit may have been generous—seven times final average salaries. To be honest, we dealt with a lot of defined benefit schemes. They were generous, but they were funded, and for employees and employers, whether salary sacrificed or whatever, the money was there, it was earning interest and it was not coming out of consolidated revenue.

I am 28 years old. I do not have superannuation—I am not a believer. As someone who has worked in the industry, I am not placing my retirement money into superannuation, I am doing it via other investment vehicles. Basically, the superannuation system now—we are getting off the topic—is just a convoluted mess of legislation. It is a great asset pool that is exponentially increasing over time, and it is so hard to resist taxing that huge asset pool, because it is naturally linked to inflation. I am not relying on the superannuation system to provide for my life or my retirement; we are doing it via other means, basically.

My point is that I dealt with schemes that were fully funded. They may be generous in terms of community expectations, but the money was there. I am not sure that that is the case with the public schemes—I am 100 per cent sure that it is not the case. One other point is that the government decree that eight per cent is their community standard of expectation. Somewhere along the line have we crunched the numbers? I do not think that eight per cent is sufficient, but, if we are going to say that, let us come out and say that eight per cent is not enough. It is as simple as that, and it is as hard as that.

CHAIR—For the *Hansard* record, superannuation is a tax-advantaged investment, particularly for a young person, if you are going to get into superannuation, because of the compounding effects reasonably early in life rather than later in life. Are there any other comments on Mr Andren's bill in particular?

Mr McFadden—I wanted to follow on with Senator Sherry. First, if I understand it correctly, you have been involved in this since 1992, is that correct?

Senator SHERRY—No, I was involved long before that.

CHAIR—That is when the superannuation guarantee came in.

Senator SHERRY—On the issue of superannuation, I was involved long before that.

Mr McFadden—It disappoints me to gain the impression that you feel that eight per cent is the contribution.

Senator SHERRY—No, I do not. I think it should be higher. But the existing community standard is eight per cent, going to nine per cent. There is a sound argument—

CHAIR—That is a minimum.

Mr McFadden—As a contribution by the employer?

Senator SHERRY—That is right. Part of that is a deferred wage increase. Three per cent of the nine per cent is effectively a wage deferral. But I do not believe that nine per cent is sufficient. However, that is the existing minimum and it is the existing provision that a considerable majority of people in the community would see through an accumulation fund.

Mr McFadden—The point that I was trying to get at—perhaps I did not express it terribly well in my letter—is that certainly the scheme of which I was a member had two sides. There were employer contributions, of which the eight per cent or nine per cent was actually exceeded by my employer by the one or two per cent I suggested in the letter. Also, the employee was able to contribute their own voluntary levels to top up to whatever was appropriate for their own retirement strategies. I fully support the idea of superannuation. I am not suggesting that parliamentarians or anybody else should not be with it. I believe that this country should work towards self-funded retirees, particularly with the baby boom problem and the diminishing taxation base that is coming underneath it because of the lowering of the average birth date.

Senator SHERRY—I agree with that.

Mr McFadden—Those are the principles to which I alluded in response to Senator Hogg. All I am asking for here is that the inquiry should not be cosmetic. It should consult external parties and find out what is available in the private sector. There are some very good and interesting schemes available where, if you apply those principles in the parliamentary sector, all our concerns here would go away as there would be equity and freedom of choice for parliamentarians to complete their own strategies effectively, but from the private sector and not from the public purse.

Senator SHERRY—I agree that we should consider what is happening in the private sector. It is just incredibly hard to get accurate data across sectors. I asked a number of the witnesses this morning whether they could give us some information on that. Personally, I do not think that we should be looking at this issue. Politicians should not be setting politicians' entitlements.

Mr McFadden—Exactly. That is exactly the point.

Senator SHERRY—That is why I argue that this matter should be resolved by some kind of independent tribunal. I find it embarrassing, as a politician, to be examining a bill that impacts on our entitlements. We should not be doing that. That is not criticism of members of the committee because we have all been involved in these issues for a long time. By the nature of parliament, the issue is referred to us automatically. However, it does not create a desirable perception.

Mr McFadden—I am grossly encouraged to hear you say that.

Mr Wildman—I can only add to that because all my life I have appeared before arbitration commissioners in respect of salary negotiations. I prepared information for salary negotiation cases and they were either heard before a judge of the arbitration court or before a conciliation commissioner. That was very hard work. I have always believed that salary increases for politicians should go before an industrial commission. Politicians should have to prove their case. If they want a rise, let them go out and do what we had to do. It sometimes took 22 months to get around to it. The most disappointing treatment I remember was when we went through the court for 22 months and the day when the judge was going to announce the decision at 10 o'clock, Malcolm Fraser brought in that wage indexation rule and we lost out by an hour and we never picked up again.

Senator SHERRY—I could talk about another famous case.

Mr Wildman—We were rather sour on that particular day.

CHAIR—Could we now move to concluding comments? Mr Baxendell?

Mr Baxendell—I think I have had a good say, but I want to refer very quickly to the details of the proposed bill. If superannuation is going to be changed, one of the least sensible ways to do it is to do it in the way proposed and to have a situation where people can volunteer to do away with what is probably the best part of their remuneration package. That seems to be a rather silly approach. People would do that only for various ideological reasons or because they were forced into it in a tight election. It would not affect the great majority of people. It seems that if superannuation for politicians is going to be reformed, it should be done in a more thoroughgoing and scientific way instead of having a situation where a minority of people who want to opt out can do that. That is very poor and it has certain undesirable consequences for ordinary people. In a sense, a lot of this relates to party politics or at least leads to the politics of parties versus independence. In that sense, it is a shame that that has occurred. If there is going to be a thoroughgoing review of superannuation, it should be done in a better way than this.

CHAIR—Mr Wildman, do you have any concluding comments?

Mr Wildman—I agree with Senator Sherry that there should be a completely independent show to look at the whole arrangement. I can see that it is quite embarrassing for yourselves, looking at your own remuneration.

CHAIR—Mr McFadden?

Mr McFadden—Thank you. Before I forget, I would like to thank you for the opportunity to make a presentation to the committee. That was welcomed. My conclusion is that I do not think that this bill should have an optional element. Superannuation should be compulsory, but it should be reviewed by an external body and there should be a sunset clause on the existing scheme.

CHAIR—Mr Marchant?

Mr Marchant—I would agree that there should be no option to opt out of the system. I believe that that is wrong for the reasons people have given already. There is a unique opportunity here to recommend that salaries and superannuation be looked at by an independent body. This should be done, particularly for young people who are looking for leadership on this issue, as many of them will not have access to superannuation in the future.

CHAIR—Thank you. Could you comment, Mr Cooke?

Mr Cooke—Yes, I can concur with most of those comments. Yes, I agree that there should be an external, independent body to establish salaries, allowances and superannuation and that there should be no opportunity to opt out. Could I just remind people that, when we are talking about the Commonwealth parliament, there are two cohorts: there are the existing members, which total 148 plus 76—so we are not talking about a large cohort—and then there are all the past non-sitting members. So, as a core group, it is very small, but it is continually expanding. Thank you.

CHAIR—Thank you. Mr Kerry?

Mr Kerry—Yes, another tribunal—bonzer! I would just like to say that, if we are going to consider this, we have got to bear in mind what the government has done for us in not retrospectively changing our superannuation entitlements. I do not think it would be fair, just, equitable or transparent, or whatever catchphrase you want to use, to retrospectively change entitlements for members of parliament who are in a scheme and who have been contributing to a scheme and change the rules on them midway. That is not what the approach has been, certainly in corporate Australia, in terms of the taxation issues. Grandfathering creates a mess in legislation—we understand that—but I do not think we can ask our members to do that. That is all I would like to say. Thank you.

CHAIR—We do not have Mr Meagher on the line. That is unfortunate. That concludes the committee's proceedings. On behalf of the committee, I thank all the witnesses who have given evidence for their participation today.

Committee adjourned at 2.02 p.m.