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Submission to
Senate Foreign Affairs, Defence and Trade Committee

Inquiry into the Military Rehabilitation and Compensation Bill 2003 and the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003

Radical Change in Government Policy

THERE IS NO OTHER JOB like war service.

Those sent to fight Australia's wars must be prepared to face a well armed, well trained enemy whose soldiers are determined to seek them out and kill them. Every day and night there is the possibility that the enemy will find some way to outsmart or overwhelm our troops' defences and achieve their killing objective. No matter what precautions our troops take, no matter how careful, how prepared, how diligent and how disciplined they are, there is no place on the battlefield offering sanctuary from the enemy's probing fingers of death.

But not only must our troops face an enemy trying to kill them, they must also seek out and try to kill the enemy troops.

And it is not as though killing and being killed is some accidental or unintended consequence of war service; it is central to it.

Service men and women cannot limit the risks they take by refusing a task, even if performing the task brings a high probability of their death or wounding.

Every service man and woman knows that losing their life or being seriously wounded are not rare accidents but the result of purposeful enemy activity. Being killed or wounded are integral parts of the job which they have no choice but to accept.

Indeed, war service is a service so dangerous that governments know, even before deployment of the troops, that some of those sent are likely be killed, many more likely to be wounded and at least one third will suffer a psychological illness requiring professional help at some future time. Governments know that the health and lifestyle of the families of veterans suffering the traumatic effects of war will also suffer. The government's own studies show that spouses of Vietnam veterans suffer a high rate of psychological distress whilst their children have an alarming 300% higher rate of suicide than their equivalent in the general population.

The government in its last election platform (Part 1, Better Health Care of our Veterans) recognised that there is no comparable job. It referred to the service of those who 'were exposed to the *unique* hardships and deprivations of combat'.(emphasis added).

SUCCESSIVE AUSTRALIAN PARLIAMENTS since the 1920s, recognising the unique dangers and horrors of the battlefield, have developed a special compensation scheme including some advantageous principles not usually available in civilian workers compensation arrangements. That war veterans' compensation should be governed by these different principles has been accepted by a grateful nation and parliament.

THE PRESENT GOVERNMENT has decided to change this policy. Whilst continuing to give special praise to those it puts in the way of such great danger, the government is in the process of downgrading war service compensation by eliminating its advantages over the peace-time equivalent.

THE MOST COMPLETE STATEMENT of this reversal of eighty years of parliamentary recognition came from the then Minister for Employment and Workplace Relation, the Hon Tony Abbot, MP. His Department's submission to the Clarke enquiry[1] claimed troops at war could be put in the same category as firemen and policemen. Here is what he said:

> "There are similarities between the civilian compensation schemes and the military scheme in that both provide compensation benefits for

[1] Submission 2466 to the Pearce Inquiry, Repatriation Commission of Employment and Workplace Relations, *Submission to the Review of Veterans' Entitlements by the Repatriation Commission of Employment and Workplace Relations, 13 June 2002*

> persons involved in high risk activities. Police officers and firefighters employed by State governments are just two examples of civilians whose occupations involve high risk activities…No distinction in benefits is made under either the State of Commonwealth compensation schemes for those workers involved in hazardous work."

In other words, the firefighters and police receive adequate compensation for the risks inherent in their jobs in their up-front pay and allowances. This, too, the Department of Employment and Workplace Relations believe, should be and, in fact, is the case with members of the armed forces. The submission explains:

> "… ADF members should be adequately remunerated in their employment to reflect the nature of their service."

So, like firemen and policemen, members of the armed forces, Tony Abbot argued, are compensated for the risks they face in their job in their up-front pay and allowances. It follows that:

> "The likelihood of injury from such activity and any subsequent compensation payment, does not, and should not, form any additional, yet hidden, component of remuneration arrangements."

Or, in plain words, members of the armed forces should <u>not</u> be given special consideration when being compensated for war caused disabilities, because they have already been financially compensated in their wages, like the firefighters and police, for the risks inherent in their job.

In our view, the Minister's claim is ludicrous. Whilst the pay and allowances soldiers get nowadays is much more generous than during the Vietnam war and may go a good way towards compensating for discomfort, physical pain and exhaustion, frequent family separation, requirement to obey orders under stringent military law, requirement of be on duty 24 hours a day when required, and so on, the pay and allowances come nowhere near compensating for war-time risks.

As we have said, when troops are despatched on war service, they are required to fight an often well armed, well trained, well organised, numerous enemy who are determined to kill them. It is not just a dangerous environment like a fire or a building site. The fire has no malice towards the firemen and the building site no intention of harm towards the construction worker. And whilst it is true that occasionally police may have to face an armed criminal, these occasions are infrequent and the criminal's first priority is escape, not the death of the policeman.

Not only do members of the armed forces <u>not</u> receive pay and allowances which includes up-front market rate compensation for the risks of the battlefield, but governments could simply not afford to pay such amounts to the numerous members of any national army in any moderately serious armed conflict. For instance:

- What would be the market rate for someone to follow a wounded Viet Cong down a narrow tunnel system sporting only a pistol and torch? Many Engineers did similar things time and time again.

- What would be the market rate for a medic to go to the aid of a soldier just blown-up on a mine, prodding his bayonet into the ground as he goes in the hope of detecting the side of an anti-personnel mine before treading on its prongs and himself joining the scatter of badly wounded and dead? Medics had to be prepared to do this and, in fact, did it on many occasions.

- What would be the market rate for a helicopter pilot balancing one skid on a rock whilst casualties are loaded, so he does not risk detonation more mines? This and similar situations were commonplace.

- What would be the market rate for a medic to go to the aid of a wounded soldier under fire? Medics did this time and time again.

- What would be the market rate for an infantryman carrying out his everyday duty of cutting his way through bamboo infested jungle in areas of known enemy bunker concentration knowing that if he misses the well hidden sign of their presence and approaches close to one which is occupied, he is as good as dead? Not a few soldiers died in this way.

- What would be the market rate for the common requirement of infantrymen crawling out from a night ambush position after the ambush has been sprung to attach ropes to the legs of the (hopefully) dead enemy so they can be dragged back and saved from being retrieved by their comrades? This was a normal requirement.

- What would be the market rate for taking part in a counter attack when your mortar platoon has been half over-run by North Vietnamese regulars? Or what would be the market rate to cross the start line of any attack on the well entrenched enemy? This is the combat infantryman's bread and butter.

- What would be the market rate for repeatedly driving a truck from the port and stores depots to the forward operational base on roads which could very well be mined and under the surveillance of snipers? This was normal driving duties.

- What would be the market rate for driving an armoured personnel carrier into the teeth of well-constructed bunker system with well-trained enemy determined to cut short your advance with their pattern of cris-crossing anti-tank grenades? This happened on not a few occasions.

- And so on…

As we have said it is ludicrous to suggest members of the armed forces are paid or could be paid enough up-front to compensate them at market rates for the risks they take in war.

(And our troops have never expected to be paid danger money at market rates. They have fought Australia's wars for mainly other than financial reasons. But what they have expected is that should they die as a result of facing Australia's enemies their families would be well cared for and that if they should be wounded, physically or mentally, the Australian government would care for them medically and compensate them generously.)

That the Department of Employment and Workplace Relations is peddling the argument that members of the armed forces *are* paid market rate compensation for the battle-field risks in their up-front pay and allowances can only be put down to bad faith or unpardonable ignorance.

SENATOR ROBERT HILL has made clear he is aware of the special nature of the service given by the troops he has sent to Timor, Afganastan and Iraq. He has also been unstinting in his praise of the work they have done.

On the other hand, in unison with the Department of Employment and Workplace Relations, he was, when Minister for Defence, urging that the long standing principles of war veterans' compensation giving some advantage to those who have faced the enemy, be scrapped. His submission to the *Review of Veterans Entitlements* demanded that compensation should:

> "... reflect the circumstances of the individual, ie level of impairment and income, and are not directly influenced by the nature of service being rendered by the member at the time of injury[2]."

BUT THE FIRST INDICATION that the government meant to downgrade war veterans' compensation came from the Hon Bruce Scott, MP, the former Minister for Veterans Affairs. He took with alacrity to his worthy task of unveiling monuments to the bravery and sacrifice of those Australians sent to fight their country's wars. He even went so far as to dress in the uniform of the Light Horse and parade in saddle, to honour the soldiers of WWI.

On the other hand, while Minister, Bruce Scott surprised the veteran community by presided over a severe increase in the toughness of the eligibility test for war veterans' applying for the Invalidity Service Pension. Before the 1999 change, the eligibility test for war veterans was less onerous than the test for the equivalent civilian Centrelink disability pension, a concession granted in recognition of the uniqueness of war service. After the

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[2] Review of Veterans' Entitlements submission 2339, *Submission by the Repatriation Commission of Defence,* (Allan Hawke, 27 May 2002), page 14 paras 75 and 76.

Minister's 1999 changes, the war veterans' pension's eligibility test was much tougher than the eligibility test for the civilian equivalent.

A MORE RECENT EXAMPLE has been the Repatriation Commission's quest to eliminate veterans' benefits which are more generous than their civilian equivalents.

The Repatriation Commission's Canberra Office sent out an instruction to the State Offices to review their policies on supplying artificial limbs to limbless war veterans.

So in March this year, New South Wales Department of Veterans Affairs bureaucrats held a meeting with artificial limb suppliers and Health Department officials. It might have been supposed that such a meeting would look for ways of improving the service to limbless war veterans, many of whose limbs were lost to enemy-laid anti-personnel mines. Instead, the NSW Veterans Affairs Office proposed reducing the service to war veterans, no doubt understanding that having the review really meant seeking out ways of saving money regardless of suffering. Their proposed cut-backs were as follows:

- Limbless war veterans would have the number of artificial limbs per amputation issued to them reduced from two to one.
- Only basic artificial limbs would be issued. Any 'technological extras' that may improve the artificial limbs' functioning, now paid for by the government, would become the responsibility of the limbless veteran.

This reduction would bring the services to veterans in line with civilian entitlements. In other words, the reduction would apply community norms to veteran services.

Of course, community norms are not observed in the war zone. Health and safety officers do not veto areas as unfit to work in. For important operational reasons, troops are sent into areas infested with malaria, hook worm, dengue fever and lepto-spirosis. Often, the precautions recommended by medical authorities cannot be taken for tactical reasons. During the Vietnam war, for important operational reasons, troops were ordered to patrol areas in which the enemy were known to had intelligently laid mines; areas where no civilian would ever be expected to go. This resulted in soldiers having their limbs blown off in the most horrific of circumstances.

Community norms do not apply on the battlefield. They should not apply in the compensation of limbless war veterans.

War Service Downgraded in the Bill

IT IS A REFLECTION of this radical change in government policy the MILITARY REHABILITATION AND COMPENSATION BILL 2003 gives almost no financial

advantage to war veterans (those with qualifying service). There is a token difference in non-economic loss compensation for less serious disabilites, but none for the worst disabilities. There is no difference at all in income support payments.

We contend veterans with qualifying service should be significantly better compensated in both the non-economic loss and the income support component.

It is not only direct financial advantage for veterans with qualifying service that is to be abolished. Other indicators which have previously distinguished disabled war veteran from those disabled during peace-time service are also to be scrapped.

Presently, the community recognises certain terms and credentials as belonging to those who have been harmed by facing Australia's enemies. These are the terms 'TPI', the Gold Card, the Service Pension and the Disability Pension. These credentials are important for two reasons. The first is that the Australian community wants to be able to recognise those who have been damaged fighting their wars. It is in honour of such people that Australians flock to celebrate ANZAC Day. The second, (and related) reason is that various government bodies and private organisations give benefits and concessions based on these credentials. For instance, the New South Wales government gives free travel on bus, train and ferry to TPIs and those with certain degrees of Veterans Affairs Disability Pension. The NSW government has been approached to widen eligibility for the benefit to disabled peace-time soldiers but made it clear their interest was in rewarding only those disabled 'facing the enemy'. In other words, if the NSW government could not distinguish between war-harmed returned veterans and peace-time soldiers hurt in workplace accidents, it probably wouldn't provide any benefits at all. Other State and Territory governments give similar concessions with the same understanding that it is war-harmed returned veterans who are being rewarded. Many municipal councils give the holders of Gold Cards concessions as do some public utilities such as 'water' 'gas' and 'electricity'. Of value, too, is the benefit to TPI pensioners of free movie entry, usually for two people, given by Hoyts, Greater Union and some other movie houses. These private organisations are giving the concession in the belief they are benefiting those who were damaged 'facing the enemy' on their behalf. It is almost certain that the disappearance of the TPI category as one denoting exclusively damaged war veterans, would see the end of this concession.

The bill as it stands would abolish the distinctions between those injured at war and those injured in workplace accidents. In doing so it puts both public recognition and state, municipal and private enterprise benefits for those damaged 'facing the enemy' in jeopardy.

Yet to make this distinction would be simple.

Medical treatment cards could make it quite clear whether or not the holder was injured during qualifying service or not. The 'qualified' veteran's Gold Card could be endorsed 'TPI' and his white card, 'DV' (Disabled Veteran). Perhaps the distinction could be made clearer by those injured in peace-time accidents being issued with different coloured cards.

We strongly recommend that such distinctions be added to the bill.

The Injustice of Always Using the Military Wage on Discharge as the Sole and Permanent Determinant of the Amount of Mililtary Compensation Payable.

Case 1: Reasonable Expectations

DURING DISCUSSIONS of the New Military Compensation Scheme consultative committee, sensible suggestions were made for inclusion in the bill, which, because they did not conform to civilian workers' compensation practice and philosophy, were rejected. One of these was the concept of 'reasonable expectations'.

The NSW Court of Appeal in the recent case of ex-sailor David Ryan versus the Commonwealth ruled that Ryan, but for an accident in which he was injured, could reasonably be expected to have reached the rank of Petty Officer and that this 'reasonable expectation' must be reflected in his compensation. (copy of article about court case enclosed)

'Reasonable expectations' is not, however, reflected in the draft legislation of the Military Rehabilitation and Compensation Bill 2003. Yet in all justice it should be, at least for veterans with war service.

Take for instance a private soldier who is sent to war and returns so badly wounded that he is unable to work. He has been through a selection process to join the army. That selection process during the Vietnam war was a rigorous one; with half those called up for National Service being rejected on medical or psychological grounds. During this time the regular army was accepting only a low percentage of applicants. So assuming the soldier has performed satisfactorily in his service so far, it can be assumed that, but for his war caused disability, he would have been promoted in due course. It can also be assumed that had he left the army he would have done reasonably well in civilian life.

His military compensation reflects none of this probable future life. He is destined to have to live his life on a pension based on his rank of private.

Community norms do not apply on the battlefield. They should not prohibit justifiable and sensible concepts being added to the new military compensation scheme.

It is only fair that the principle of 'reasonable expectations' be included in the bill at least for those veterans with qualifying service. It would mean an incremental increase in the income support payments over time to reflect a reasonable expectation of income increases foregone.

Case 2: Civilian's Actual Higher Earnings

TAKE ANOTHER CASE where gearing a veteran's compensation package to the salary at discharge leads to injustice.

Take a private soldier who is injured at war. On his return he leaves the army and after 10 years working in a civilian job is earning a large salary. At this point his war caused injury catches up with him and is unable to work. He applies for compensation and it is granted; but his compensation payments are based on his salary as a private soldier, not on his civilian earnings.

This is grossly unfair for two reasons.

The first is that had he remained in the army and risen in rank, his compensation would be based on his salary at that higher rank.

The second is the bill already accepts higher payments than those dictated by rank in the case of disabled Reserve soldiers. Should a medical specialist be injured on war service so that he or she is unable to work, the compensation is not based on rank but on a calculation taking into account the medical specialist's civilian earning potential.

Civilian norms should not be used to prevent these anomalies being fixed by paying compensation based on the greater of salary of the rank at discharge and salary actually being earned as a civilian.

Injustices in Off-Setting

THE THOUGHTLESS APPLICATION of another 'community norm' will cause injustice to some veterans with serious war caused disabilities.

Take the case of a private soldier who goes to war, stays in the service till retiring age (say 47), leaves the service and receives a military superannuation pension benefit for which he has regularly contributed. He takes a civilian job but goes down with Delayed Post Traumatic Disorder (a not unusual occurrence) and is granted a military compensation pension. In this case, the war veteran's military compensation pension will be off-set against his superannuation benefits.

Take the case of a private soldier at the same war who returns, leaves the army and joins the NSW police force (or any other non-Commonwealth government job). He retires from the police force with a superannuation pension, gets a civilian job, then goes down with Delayed Post Traumatic Stress Disorder and is granted a military compensation pension. In this case his military compensation pension **will not** be offset against his superannuation.

The bill therefore promotes injustice. But it does more than that. It discriminates in such a way as to disadvantage the soldier who does what we want him to do; remain in the service. At a time when recruiting for the armed services is difficult, including such comparatively unfavourable conditions of service seems unwise as well as unjust.

At least for those veterans with qualifying service, there should be no off-setting of the military compensation pension against Commonwealth retirement superannuation payments.

IN ANY CASE, the rational given by the bureaucracy for such off-setting, the rational that retirement superannuation should be seen as 'income support' or 'economic loss compensation', is flawed.

Military superannuation is a compulsory arrangement where both the soldier and the Commonwealth make regular contributions. It is an agreement between the parties that when the soldier retires, he will get superannuation payments based on those contributions. These superannuation payments are not off-set against any income the soldier may subsequently earn. In other words, the superannuation is not seen in this context as Commonwealth government 'income support' or 'economic loss compensation'. But if the retired soldier, now working in a civilian job, becomes unable to work because of an injury suffered in war, and is granted a military compensation pension, the superannuation **is then** seen as Commonwealth 'income support' or 'economic loss compensation' and the military compensation is off-set against it.

The inconsistencies make this rather mean piece of bureaucratic logic an unworthy inclusion in a bill meant to look after those who fight Australia's wars.

Gauging the Degree of Disability

THE VETERANS' ENTITLEMENT ACT lays down a certain balance between objective medical assessment and the claimant's assessment of the effects of the disability on his lifestyle (done in conjunction with his doctor) in gauging the claimant's degree of disability. This is an important combination. There must, of course, be objective medical assessment of any disability, but any given disability can have different effects on different people. It is very important, therefore, to balance these factors in determining a claimant's degree of disability.

The Veterans Entitlements Act, under which veterans of past wars are assessed, had developed a good, fair balance of these two factors.

In what we can see only as another example of unnecessary meanness, the new bill shifts this balance so as to reduce the influence of the lifestyle report. In other words, the veterans' participation in the process of assessment has been downgraded.

The balance should be restored.

Stunted Appeals System

UNDER THE VETERANS ENTITLEMENT ACT, a request may be made for a departmental review of an unfavourable decision (known as a Section 31) at the same time as an appeal has been lodged to the Veterans Review Board.

There are very good reasons why this should be so.

Sometimes, after an appeal has been lodged to the Veterans Review Board, and before the hearing, a piece of evidence comes to light persuasive enough to cause the original decision maker to change his or her mind. A quick Section 31 review might circumvent a lengthier, more costly hearing at the Veterans Review Board.

In what appears to be another unnecessary piece of meanness, this flexability has been abolished. Now, if an appeal has been lodged with the Veterans Review Board, no internal review may be requested.

The flexability should be restored.

Likely Decline in the Real Value of the Safety Net

THE NEW MILITARY COMPENSATION SCHEME'S 'safety net', which is the TPI pension package, is indexed to the cost of living. This means it is likely to decline in value, (as has the TPI pension), compared with community incomes. Other 'income support' payments in the new scheme are indexed to military wages which are likely to keep up or exceed increases in community incomes.

It is particularly odious that the lowest paid in the military compensation scheme should have their payments decline in real value whilst the pensions of the better paid retain or increase their real value.

The 'safety net' should, like the higher payments in the scheme, be indexed to the greater of 'cost of living' and 'community or military wages.'

Inadequate Value of 'Safety Net'

IT IS OUR VIEW and a view strongly held in the veteran community that a soldier injured in battle to the point of unemployability should not be humiliated by an inability to provide decently for his family. It is unacceptable that his children should be deprived because their father was disabled whilst fighting Australia's enemies. It is a view strongly held in the veteran community that soldiers, sailors and aviators, whose ability to earn a living has been destroyed whilst fighting Australia's wars, deserves a standard of living at least that of the average family. It is against this criterion, **the standard of living of the average Australian family**, that we must judge the adequacy of the TPI pension package.

The justice of this principle, we suggest, is self-evident and widely supported. Indeed, it is those opposing such a proposition who must try to justify their opposition.

The 'income support' element of the 'safety net' should therefore be equal to the 'average wage'. Presently it falls far short of that.

But that will not, of itself, give the disabled soldier the standard of living of the average family.

For most workers, the 'average wage' will be a wage level through which they pass as promotion and added skills take them to higher incomes. This would be specially true for ex-soldiers who have been through a rigorous selection procedure before enlisting. Yet TPI veterans (those on the 'safety net') cannot pass through the TPI pension on the way to higher incomes; their income is fixed for the whole of life. Thus the safety net pensioner must forgot having those higher earnings in his middle and later working years which enable the paying off of a house and saving to cushion the difficulties of old age.

Add to this the fact that the 'average wage' earners spouse can earn income to raise the family's standard of living without being severely penalised. Indeed, the vast majority of Australian families find it necessary to have both parents, at various stages, to be income earners. The TPI pensioner's spouse, on the other hand, faces severe financial penalties should she attempt to contribute to the family income. Indeed, so much is she penalised that, unless she is a very high wage earner, it will hardly be worth her while to work.

The 'average wage' earners spouse does not as a rule have to cope with a sick partner. The TPI pensioner's ('safety net' recipient's) spouse has this added difficulty. The government Vietnam veteran health study shows that the spouses of TPI pensioners have a high rate of sickness (often mental) themselves. So do their children, a sad truth demonstrated by the same health uncovering the alarming statistic that they have a 300% higher suicide rate than their equivalent in the general community. There is every reason to suspect this unhappy state of affairs results from all wars.

THE TPI PENSIONER ('safety net' recipient) is entitled to certain benefits but these generally are to compensate for the veteran's war-caused ill health or mirror benefits available to disabled or low income civilians. But to compensate for the TPI pensioner's (ie pensioners on the 'safety net') disadvantage compared with a civilian 'average wage' earner, these benefits should be added.

- An addition of $6,000 a year to the veteran's 'income support' of the 'average wage' to compensate for there being no future increase.
- Allow other income to reach $20,000 before it is counted as income for off-sets against the 'income support' pension. Perhaps the rule could be: between $20,000 and $40,000, off-set at a rate of 40 cents in the dollar; over $40,000, raise the off-set to 60 cents in the dollar. Increase VCES by 50% to help cope with the high cost of children in education. This would allow spouses, present or past income to contribute to the family well being in a reasonable way.
- So as to help compensate for TPI pensioners' ('safety net' recipient) difficulty in saving for old age, the Invalidity Service Pension should cease being taxed at age 65.

- So as to help compensate for the TPI pensioners' ('safety net' recipient) difficulty in saving for a house, establish a Defence Service Home Loans specifically designed to suit 'safety net' recipients.
- To help compensate for the demonstrated ill health of TPI families, grant the Gold Cards to spouses.
- To help compensate for the demonstrated ill health of TPI families, subsidise family private health insurance to recognise that the veterans already has a Gold Card (health funds giving no discount for this).
- To reduce the chance of veterans' children committing suicide, increase assistance for their education.

IN THE PAST there has been loose talk from all quarters suggesting that the TPI package, now proposed as the 'safety net' in the new military compensation scheme, is a generous pension.

When such claims are made, the guilty party is almost inevitably comparing the TPI package with civilian disability welfare payments. But the TPI package is not welfare, it is military compensation akin to workers compensation. And it is compensation for disabilities caused in a job which cannot be compensated 'up-front' for the dangers incurred.

In a more general sense, it is compensation for soldiers, sailors and aviators damaged whilst 'facing the enemy'.

For veterans with qualifying service, the 'safety net' should be made more generous.

Conclusion

WHEN DETERMINING WHAT COMPENSATION disabled war veterans should receive, phrases such as 'fiscal responsibility', 'within the financial envelope', 'within budgetary guidelines' are trotted out. These are phrases used to limit the cost of veterans' benefits. But the cost to serviceman and woman as they were sent off to the war in Vietnam was unlimited. Not for them to say, 'I'll go only if the price I pay can be limited to a soft flesh gunshot wound or some minor wounding from the shrapnel of an exploding RPG 7 rocket. I certainly won't go if I could get killed." Not for them to say, "I'll go as long as I can land my helicopter only in safe landing zones." Or "I'll go if you can guarantee the price I pay will not include the life destroying effects of Post Traumatic Stress Disorder or the horror of cancer." Or "I certainly won't go if I could have my legs blown off on a mine, though I'll accept a mild bout of malaria." No. The risks run by those who went were unlimited so the price they might be forced to pay was unlimited. It is the same for all wars.

It would, therefore, be churlish of you to approach the questions of adequate compensation and 'income support' in a limited way. Needs and dignity should be met, unlimited by meanness of spirit, a quality conspicuously absent in the actions of servicemen and women risking all for their government and community.

Yours sincerely,

Tim McCombe

Tim McCombe
President

(The Australian, November 21, 2002)

A FORMER Australian navy seaman injured in the Voyager disaster will keep more than $1 million in compensation after the Commonwealth lost an appeal against the payout.

David William Ryan, 57, from Victoria, was a mechanic on board the aircraft carrier HMAS Melbourne when it collided with the destroyer HMAS Voyager on February 10, 1964.

The accident off the NSW south coast was Australia's worst peacetime naval disaster and claimed the lives of 82 men.

Mr Ryan, who was discharged from the navy in 1971 after serving for nine years, successfully sued the Commonwealth in the NSW Supreme Court, claiming damages for psychiatric injury and physical impairments following the collision.

He received damages totaling $1.2 million after a jury decided to compensate him for **the loss of a pension he would have received had he stayed with the navy for 20 years and reached the rank of chief petty officer.**

Mr Ryan had told the court that when he joined the navy he wanted to make it his career but after the Voyager disaster decided he wanted to get out because the incident "devastated" him.

The Commonwealth appealed against the damages award, claiming there was insufficient evidence to support Mr Ryan's claim he would have remained in the navy and that he would have become a chief petty officer.

But the NSW Court of Appeal decided it was open for the jury to find that Mr Ryan would have re-enlisted in the navy and could have been promoted to chief petty officer.

The court dismissed the Commonwealth's appeal and ordered it to pay costs.