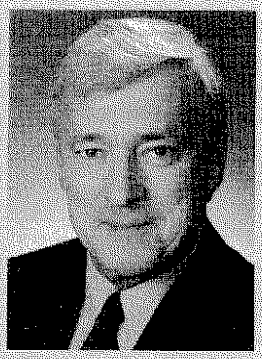

Peter Andren M.P.
Federal Member for Calare

Please address correspondence to:
P.O. Box 181
BATHURST NSW 2795
(Suite 2, The Reliance Centre
203-209 Russell Street)
Tel: (02) 6332 6229
Fax: (02) 6332 6240
Toll Free 1300 301 762

Parliament House
CANBERRA ACT 2600
Tel: (02) 6277 2341
Fax: (02) 6277 8471

60 Main Street,
LITHGOW NSW 2790
Ph/Fax: (02) 6351 3838

email:
Peter.Andren.MP@aph.gov.au
Website:
www.peterandren.com

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26 May 2004

Mr Alistair Sands
Secretary
Senate Standing Committee on Finance & Public Administration
Parliament House
CANBERRA ACT 2600

Dear Mr Sands,

RE: THE PROVISIONS OF THE PARLIAMENTARY SUPERANNUATION BILL 2004 & RELATED BILLS

Please accept this letter and associated documents as my submission to the Committee's inquiry into the provisions of the *Parliamentary Superannuation Bill 2004 and the Parliamentary Superannuation Other Entitlements Legislation Amendment Bill 2004* (*Other Entitlements Bill 2004*).

This submission consists of:

- a summary of the existing Parliamentary Contributory Superannuation Scheme (PCSS) and the public debate on the need for reform;
- a brief evaluation of the government's new superannuation arrangements for new parliamentarians and the need for further reform, supported by:
  - the text of my amendments to the *Parliamentary Superannuation Bill 2004* and *Other Entitlements Bill 2004*; and
  - relevant excerpts of the House of Representatives *second reading debate* and *consideration in detail* stage explaining the workings of, and reasons for, my amendments to the above bills and the government response in this regard.

The Parliamentary Contributory Superannuation Scheme

The parliamentary superannuation scheme was established in 1948 under the *Parliamentary Contributory Superannuation Act* of that year. Reasons for the establishment of the scheme included:

- entering Parliament often meant foregoing potential superannuation pay-outs from previous employers due to leaving that employer prior to retirement age;

- electoral or parliamentary demands reduced members' chances to re-establish careers when their parliamentary term was over; and

- the need to entice people to enter Parliament who would not otherwise nominate.

Originally the scheme was funded to the extent of the members' contributions, and was framed along the lines of the Commonwealth public service superannuation scheme.

Contributions were three pounds per week (about 10.4% of salary) and a fixed annuity of eight pounds per week was payable when a member qualified for a pension, an amount which, according to Prime Minister Chifley was in 1948: *"much less than the maximum pension provided under many private and public superannuation schemes"*.[1]

Between 1948 and 1973, the main amendments to the scheme were:

- in 1955, the three occasions rule was introduced (see below);

- from 1959, the age at retirement became a factor in fixing the rate of pension;

- orphan benefits were introduced in 1959; and

- from 1963, pensions changed from a fixed amount to being based on salary.

In 1973 the scheme underwent major changes. The fund was abolished and its assets transferred to the Consolidated Revenue Fund (CRF). Contributions were then paid into the CRF, from which benefits were also paid.

The maximum benefit payable to a member was increased from 50% to 75% of the parliamentary salary, and pensions accrued according to the length of service rather than age at retirement. Also, the minimum age requirement of 40 years for the pension on involuntary retirement was removed, and the minimum age on voluntary retirement was raised from 40 to 45 years (eventually removed in 1978). Provisions for invalidity pensions, indexation of pensions and the recognition of State parliamentary service were also introduced.

Since 1973, various amendments have been made including the introduction of a 50% commutation of pension option in 1978. This option was increased to 100% in 1979. Further changes in the same period included:

- reducing the 100% commutation option back to 50% in 1983; and

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[1]The Hon. Ben Chifley, Prime Minister & Treasurer, House of Representatives Hansard, 1 December 1948, at p. 3739.

- the provision for reducing a pension, on the basis of the former parliamentarian receiving remuneration from an Office of Profit under the Crown, was reintroduced in 1983 (it had been removed in 1973).

Generosity of the Scheme

The level of the superannuation contributions made for parliamentarians by the Commonwealth is set by the *Parliamentary Contributory Superannuation Act 1948*. Members and Senators must contribute at the rate of 11.5% of their Parliamentary Allowances for the first 18 years in office and at 5.75% for subsequent years.

In addition, they must contribute the same percentage of their Additional Office Holder Allowance if they hold a higher office.

The parliamentary scheme is also an unfunded defined benefit scheme. 'Unfunded' means that the scheme funds its benefit payments from annual Commonwealth appropriations. 'Defined benefit' means that members' entitlements are, in general, multiples of years of service and a percentage of salary.

In a defined benefit scheme, the employer is responsible for providing the difference between the benefit actually paid and what the member has contributed toward the benefit.

Every three years the Australian Government Actuary provides the Department of Finance with details of the long-term cost to the Commonwealth of funding parliamentarians' superannuation. At each review, the notional employer contribution rate is reported. This rate illustrates the effective cost of parliamentary superannuation benefits as a percentage of the total salaries of scheme members. As at 30 June 1996 the rate was 69.1%.[2] The Parliamentary Retiring Allowances Trust Annual Report for the financial year 2000-2001 puts this figure at 69.4%.[3]

This is the notional employer contribution from the Commonwealth needed to meet the lump sums and pensions payable to retired members under the scheme. In other words it is a three-yearly snapshot by the Government Actuary of the projected cost of scheme.

Compared to the majority of Australian workers, this level of employer contribution for superannuation is very generous. The Commonwealth Superannuation Scheme's (CSS) notional employer contribution is around 23%, while the Public Sector Superannuation Scheme (PSS) is approximately 13%.

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[2] *The Parliamentary Contributory Superannuation Scheme & Judges Pension Scheme*, Parliament of the Commonwealth of Australia, 1st September 1997, p. 15.
[3] *Parliamentary Retiring Allowances Trust Annual Report 2000/2001*, p.7.

The generosity of the parliamentary scheme is further demonstrated when it is compared with the level of compulsory superannuation paid by most employers under the Superannuation Guarantee (SG) scheme. The SG scheme requires all employers to make a minimum superannuation contribution on behalf of employees (with limited exceptions). The minimum level of employer-supported superannuation is currently 9%.

Early Access

In 1994 the parliamentary superannuation scheme was amended to make it subject to the same preservation rules applying to other superannuation funds. New preservation rules, administered by the Australian Prudential Regulation Authority, took effect from 1 July 1999. From this date, all superannuation contributions (including member contributions) and superannuation fund investment earnings have been preserved until fund members reach their preservation ages.[4]

In the 1997 Budget the Government announced that the preservation age would be increased from 55 to 60 on a phased in basis. By 2025, the preservation age will be 60 years for anyone born after June 1964, with the age 60 preservation age being reduced by one year for each year that person's birthday is before 1 July 1964. This means that a person born before 1 July 1960 will continue to have a preservation age of 55.

For the general public, preserved superannuation benefits can usually only be accessed on limited compassionate and severe financial hardship grounds. However, under the new preservation rules, a person continues to be allowed to have early access to preserved benefits where they are taken in the form of a non-commutable[5] lifetime pension or annuity on termination of gainful employment. It is this feature that has allowed parliamentarians elected before 2001 to gain early access to their superannuation entitlements.

Such early access is generally not an option for most other workers until they are very close to retirement.

It also means a member losing either pre-selection or an election at his or her "third occasion" (the third election subsequent to initial election) can access the full benefits of the scheme. In this way the scheme rewards relatively short-term members to a far greater degree than long serving MPs. Apart from this it encourages the "pensioning-off" of non-performing Members or Senators.

Debate for reform of the PCSS

[4] Preservation Age is the age at which a fund member can gain access to benefits that have accumulated in a superannuation fund or RSA, provided the member has permanently retired from the workforce.

[5] Commutation refers to the taking of a benefit in a lump sum.

On 25 November 1996 the Senate asked its Select Committee on Superannuation to inquire and report on the appropriateness of the parliamentary superannuation scheme.[6]

The Committee received 46 submissions and held three public hearings before handing down its report on 1 September 1997. In the report, entitled *The Parliamentary Contributory Superannuation Scheme and the Judges' Pension Scheme*, the Committee concluded that:

- change to the parliamentary superannuation scheme was desirable;
- the scheme was out of step with superannuation practice in the wider community;
- the scheme lacked transparency, and this lack of transparency gave rise to much of the public criticism it attracted; and
- there was convincing evidence the scheme was excessively generous to a small group of retiring parliamentarians.[7]

According to its report:

> *The Committee agreed that the scheme has many significant shortcomings. It does not necessarily serve its members well, may be outdated in some of its provisions and attempts to achieve too much in relation to what a superannuation scheme can fairly be expected to provide.*

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[6] The full Terms of Reference the Committee was asked to inquire and report on were:

1) The appropriateness of the current unfunded defined benefit superannuation schemes' application to judges and parliamentarians, including but limited to:

(a) the equity between members;
(b) the cost to the Commonwealth and members;
(c) the impact of unfunded liabilities on future budgets;
(d) the advantage or otherwise of member choice of fund or investment strategy;
(e) the flexibility of existing schemes, including in respect of portability, in the context of their working arrangements and those applying in the general work force;
(f) the appropriateness of replacing such schemes with a fully-funded accumulation scheme;
(g) the appropriateness of the application of preservation rules and taxation on benefits taken prior to age 55 to such schemes;
(h) the capacity for making superannuation arrangements less complex than current arrangements; and
(i) the administrative cost of such arrangements and their alternatives.

2) That for the purpose of the inquiry the committee take evidence from the public, Government agencies and State, Territory and Federal government departments, and conduct public hearings as appropriate.

[7] *The Parliamentary Contributory Superannuation Scheme & Judges Pension Scheme,* Senate Select Committee on Superannuation, 25th Report, Parliament of the Commonwealth of Australia, Canberra, 1 September 1997, p. 41.

> *There is also a lack of transparency in parliamentary superannuation that gives rise to much of the criticism of the PCSS. Further, there is also clearly a negative perception in the mind of the public about the scheme, and an uneasy relationship between the PCSS and superannuation in the broader community. In light of these findings, the Committee considers that reform is desirable.*[8]

Regarding issues of flexibility, portability and choice the Committee said:

> *The result of the inflexible nature of the PCSS is a lack of choice for individual parliamentarians. In view of the increasing prospect of new members bringing to their parliamentary life substantial superannuation as a result of other employment, it seems inefficient as well as unnecessary to be requiring them to contribute to a scheme which may result in them exceeding the Reasonable Benefit Limits or exceeding their own superannuation requirements ...*
>
> *The Committee also recognises the lack of portability involved in the parliamentary scheme. While it is possible for a member of the PCSS to purchase notional past service that will be taken into account in determining future entitlements under the PCSS, this option is generally not taken up. Then, on leaving parliamentary service, there is no transferability of a PCSS pension entitlement to another scheme.*
>
> *One possible solution to these dilemmas is for membership of the PCSS to be optional, to the extent that every parliamentarian is a member until he or she opts out.*[9]

Government members of the Committee recommended that, among other things, upon taking office new parliamentarians should be offered the choice of opting out of the parliamentary scheme in favour of a fully funded accumulation scheme or retirement savings account of their choice.[10]

The Australian Labor Party Members of the Committee did not recommend specific changes to the scheme but concluded the Remuneration Tribunal was the appropriate body to make recommendations for reform.[11]

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[8] *The Parliamentary Contributory Superannuation Scheme & Judges Pension Scheme,* Senate Select Committee on Superannuation, 25th Report, Parliament of the Commonwealth of Australia, Canberra, 1st September 1997, p.3.
[9] ibid, at p.27.
[10] ibid, at p.42.
[11] ibid, at p.43.

In a dissenting report on behalf of the Australian Democrats, Senator Lyn Allison expressed the view that the scheme was too generous and was in urgent need of reform.[12]

On 1 December 1997 the Minister for Finance the Hon. John Fahey formally responded to the report in a letter to the Committee's Chair Senator John Watson. In his response the Minister stated that:

> *The Government welcomes your Committee's report on its inquiry into the superannuation arrangements for parliamentarians and judges. I note the committee members were all of the view that the Remuneration Tribunal should be involved in setting parliamentary superannuation.* [13]

The Minister went on to say that the Government would give further consideration to the Committee's findings in the context of changes then proposed to the way Members of Parliament were paid. These involved setting parliamentarians' remuneration by reference to classifications determined by the Remuneration Tribunal, rather than by direct linkage to public service Senior Executive Service salaries.

Following the October 1998 federal election, it was revealed that 33-year old Queensland Senator Bill O'Chee, who had lost his seat after nine years service, would leave Parliament entitled to an indexed lifetime pension of approximately $45,000 a year. On the 7 October 1998, in response to the public outcry over these revelations, the Minister for Finance was reported to have pledged to review the Parliamentary Superannuation Scheme.[14]

When asked in Parliament on 24 November 1998 whether he supported a review of the parliamentary superannuation scheme, the Prime Minister replied: "*I never close my mind to reviews of superannuation, be it parliamentary or otherwise*", but went on to conclude, "*that you will never really solve the problem. I say to those who have recently joined this place – I say this to people on both sides – that if you imagine you will solve the anomalies of all this within a short space of time, you will not.*"[15]

On 8 February 1999, in response to a Question on Notice seeking confirmation about the review he was reported to have proposed, the then

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[12] Senator Lyn Allison, Dissenting Report, Senate Select Committee on Superannuation, 25th Report, *The Parliamentary Contributory Superannuation Scheme & Judges Pension Scheme*, Parliament of the Commonwealth of Australia, 1 September 1997, p.1.

[13] The Hon. John Fahey, Minister for Finance, Government Response to Senate Select Committee on Superannuation's, 25th Report, *The Parliamentary Contributory Superannuation Scheme & Judges Pension Scheme*, 1 December 1997.

[14] Peatling, Stefanie, *"Fahey Pledges Super Review"*, Sydney Morning Herald, 7 October 1998, p.10.

[15] The Hon. John Howard, Prime Minister, House of Representatives Hansard, 24th November 1998, p.481.

Minister for Finance said: "*the Government has not decided at this time on any review of the Parliamentary Superannuation Scheme.*" [16]

On 9 March 1999, in response to another Question without Notice the Prime Minister said: "*I have never ruled, nor has the Government ever ruled out, further examination of parliamentary superannuation arrangements.*" [17]

The Parliamentary Superannuation Bill 2004

The government finally, and hastily, acted on obvious public dissatisfaction with parliamentarians' superannuation in February 2004. The Prime Minister's proposed reforms came in reaction to the Leader of the Opposition's 'breaking ranks' on the issue, essentially committing the ALP to closing the PCSS – if successful at the next election.

Unfortunately, the PM's original proposal to close the PCSS for all MPs, current and future alike, was defeated in the Coalition party room.

The *Parliamentary Superannuation Bill 2004* and *Other Entitlements Bill 2004* establish new superannuation arrangements for members and senators elected at the next federal election. New member and senators will receive employer contributions of 9% of salary, in line with the superannuation guarantee, paid into a complying fund of their choice.

These arrangements are not to be applied to sitting parliamentarians.

This is despite the government's own 'choice of superannuation' legislation, giving all working Australians freedom of choice in their superannuation arrangements; and public support for my *Parliamentary (Choice of Superannuation)* private member's bills giving the same choice to federal parliamentarians.

My private member's bills were introduced in March 2001, and again in September 2003. The 2003 version of the bill incorporated technical improvements to overcome apparent drafting deficiencies that came to light as a result of its review by the *Senate Select Committee on Superannuation and Financial Services*.

The committee received 2,649 submissions from members of the public, interest groups and government agencies, most of which were submitted following *A Current Affair*'s story about the issue on 17 May 2001. The 2003 bill received similar media coverage.

The electorate's increasing expectation that its representatives' superannuation more closely reflect the community standard was the motivation for both the

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[16]The Hon. John Fahey, Minister for Finance and Administration, House of Representatives Hansard, 8th February 1999, p.2165.
[17]The Hon. John Howard, Prime Minister, House of Representatives Hansard, 9th March 1999, p.3443.

Opposition Leader and the Prime Minister to take up the cause of reform in order to reconnect with the people.

However, the resulting legislation achieves no such thing. The 'disconnect' continues under the *Parliamentary Superannuation Bill 2004* and its related legislation. Not only do we legislate a 9% employer contribution for other working Australians and now for new MPs, we will not budge on our own 69% notional employer contributions.

The amendments I proposed to the *Parliamentary Superannuation Bill 2004* and *Other Entitlements Bill 2004* allow sitting MPs to 'opt-in' to the new arrangements, and for the Remuneration Tribunal to determine the formula by which an equivalent retirement benefit would be transferred to the superannuation fund of their choice.

Not only are these amendments consistent with my previous private member's bills, they are wholly consistent with legislative precedents at both state and federal levels.

The West Australian parliamentary superannuation scheme under that state's *Parliamentary Superannuation Act 1970*, and federally, when the Commonwealth Superannuation Scheme (CSS) was closed in 1990, its members were given 12 months to elect to transfer an equivalent benefit from their scheme to the new Public Sector Superannuation Scheme (PSS)).

They are also consistent with the findings of the then *Senate Select Committee on Superannuation* report of 1997: *The Parliamentary Contributory Superannuation Scheme & the Judges Pension Scheme.*

Rather than repeat the detail of my argument in support of my amendments here, I have provided copies of the amendments and the relevant transcripts from the House of Representatives' debate on the bills for the information of the Committee's membership.

These documents will provide a full account of the reasons for and the workings of my amendments, and the government's response to them.

Yours sincerely,

PETER ANDREN
Federal Member for Calare

2002-2003-2004

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Parliamentary Superannuation Bill 2004

(Amendment to be moved by Mr Andren)

Clause 5, page 4 (lines 31-32), omit paragraph (1) (c), substitute:

(c) the person;

(i) was not entitled to a parliamentary allowance immediately before that time, or

(ii) if the person was entitled to a parliamentary allowance immediately before that time, the person has given to the administering authority a notice in writing signed by the member stating that the member has elected to cease to make contributions to the scheme established by the *Parliamentary Contributory Superannuation Act 1948* and to become instead subject to the scheme established by this Act.

2002-2003-2004

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004

(Amendment to be moved by Mr Andren)

Schedule 1, page 12 after item 18 (after line 21) add:

19 Assessment of benefit payable in respect of Member who has elected to leave the scheme

(1) This clause applies in respect of a person who has made an election under subparagraph 5 (1) (c) (ii) of the *Parliamentary Superannuation Act 2004* to cease to make contributions to the scheme established by this Act and to become instead subject to the scheme established by the *Parliamentary Superannuation Act 2004*.

(2) As soon as practicable after the *Parliamentary Superannuation and Other Entitlements Legislation Amendment Act 2004* receives the Royal Assent the Remuneration Tribunal shall inquire into and report on:

(a) a formula for calculating any benefits payable with regard to contributions made under this act to or in respect of a person who has made an election under subparagraph 5 (1) (c) (ii) of the *Parliamentary Superannuation Act 2004* (***termination benefits***)

(b) when and in what circumstances termination benefits shall be paid;

(c) to whom termination benefits may be paid;

(d) the portability of termination benefits;

(e) the legislative amendments necessary to give effect to, and authorise payments in respect of, termination benefits, and

(f) any other matter relevant to the calculation or payment of termination benefits that the Tribunal thinks fit.

PARLIAMENTARY SUPERANNUATION BILL 2004; PARLIAMENTARY SUPERANNUATION AND OTHER ENTITLEMENTS LEGISLATION AMENDMENT BILL 2004: Second Reading

Mr ANDREN (Calare) (4.48 p.m.) —I would have liked to have congratulated the government and opposition for these two bills, the Parliamentary Superannuation Bill 2004 and the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004, ending the taxpayer funded rort that is the Parliamentary Contributory Superannuation Scheme—the PCSS—but I cannot, because they do not. I must, however, commend the member for Kingston on the frankness of his remarks a moment ago and his recognition of the generosity of this scheme, which is quite remarkably outside anything that applies to anything that we expect and devise for our constituents.

The PCSS continues because new retirement arrangements contained in the bills apply only to new members and senators who come to this place after the next election and former members and senators who return to parliament after retiring or having lost their seat. The outrageously overgenerous and fully protected PCSS remains for currently sitting MPs and senators. So, despite the fact we have these bills recognising how out of touch the retiring benefits of elected representatives are when compared with those of the rest of the Australian community, most members and senators on both sides have made it perfectly clear that applying the new retirement arrangements to themselves is well and truly off the agenda. The great disconnect between the people and their parliamentarians will therefore continue while the existing benefits are still applicable.

I hope to restore some confidence amongst the electorate that some politicians do not seek to place themselves outside and above the laws they make for the rest of the community by moving amendments in the consideration in detail stage allowing all MPs the opportunity to opt in to the new superannuation arrangements under the nine per cent super guarantee. I invite members on both sides to support my amendments. I will expand on these later in these remarks, but first I will look at the new arrangements contained within these bills. [start page 28419]

Prior to that, I will make a few comments on the speech of the Leader of the Opposition. It is true it took his initiative to bring us to the point we are at today, debating this legislation, and for that he must be praised. It is something none of his predecessors—along with leaders of government on both sides of politics over many years—had the fortitude to touch. It is true that it would take such a move from a government or opposition leader before any substantial political imperative was established to force these changes.

The Leader of the Opposition says this legislation is a result of Labor's policy announcement. But, before anyone tries to climb to the high moral ground on this issue, let me remind the House of the words of a man who could really be said to be the architect of this long-belated reform. Ted Mack, the Independent member for North Sydney from 1990 to 1996, was a man who twice retired from parliaments—first the NSW parliament and then this one—to avoid accessing the parliamentary superannuation scheme.

Let me quote from the *Hansard* of this House from 9 June 1994, when the member for North Sydney stood a few seats behind where I stand now in this chamber and spoke in the second reading debate of the Superannuation Laws Amendment Bill, which was ironically a bill to give members and ex-members of parliament the option to take improved superannuation benefits. By such improved benefits the parliamentary superannuation scheme has over the years been transformed from a scheme for which its maker, Ben Chifley, had honourable intentions, a scheme honestly designed to attract and secure a wide range of parliamentarians from career paths into the uncertainty of politics. The scheme today bears no resemblance to the scheme Chifley introduced, yet MPs have themselves improved a scheme over the years that completely cocoons eligible recipients from the realities of the real world, a world that today has job uncertainty as a fact of life.

They are my words, but the words of Ted Mack, when he was one of only three speakers—it was not unlike this debate—on that June day 10 years ago were these:

If there is one thing that brings parliamentarians and the institution of parliament into disrepute it is the enormously generous unfunded parliamentary superannuation schemes that exist for federal parliament and also for the state parliaments. It is interesting that the Superannuation Laws Amendment Bill is getting very minimal attention, because I think most people in here are really aware of the situation.

Mr Mack went on:

Further expanding the benefits for members and ex-members on top of the recent salary and benefit rises is quite unjustified and is guaranteed to bring this institution and all of us in here into contempt.

Speaking of his constituents later in that speech, Mr Mack said:

Most of them have to pay—

into superannuation, that is—

... for around 40 years and get far less in benefits than we can get after eight years.

How relevant those words still are today.

It was Ted Mack's long campaign from the mid-1980s that brought us to this point, not necessarily the recent moves by the Leader of the Opposition and the government. My two private member's bills, in the previous parliament and last year, were designed to obtain the outcome built into the amendments I will move in the consideration in detail stage. My argument was and remains simple. We should have superannuation arrangements with employers' contributions no more generous than we legislate for the rest of the community—our constituents. [start page 28420]

I have consistently argued that parliamentary salaries should be a separate debate and subject to proper independent inquiry. We have allowed superannuation entitlements and other overgenerous allowances to grow as a de facto salary compensation for parliamentarians too afraid to debate payment but quite happy to self-manage a host of arrangements, including super, whose benefits, until exposed by non party members, have been a mystery to most people. Indeed, it was not until I included the Government Actuary's assessment of the nominal employer—that is, the taxpayer—contribution to the parliamentary scheme at 69 per cent in the explanatory memorandum to my 2001 bill that the public knew just how outrageously generous this scheme is.

Those private member's bills also served to focus public attention on this issue in such a way that almost 3,000 public submissions were lodged with the Senate inquiry into my 2001 private member's bill and there was widespread media coverage and interest taken by programs, especially *A Current Affair*. The public hostility generated by decades of inaction by the major parties was the message the Leader of the Opposition heard before he made his policy announcement in February, and which was recognised by the announcement by the Prime Minister at a later date. Had there not been that exposure and those committed efforts over almost 20 years by non major party members of parliament, particularly Ted Mack, we would not be here today—it is as simple as that. It has been an absolute no-go zone for the Labor and coalition parties until the opposition leader quite correctly read the extent of the public hostility.

I will move on to this legislation. The Parliamentary Superannuation Bill 2004 establishes the new superannuation arrangements for members and senators elected at the next federal election, which could be sooner than we think, given last night's budget. New members and senators will receive employer contributions of nine per cent of salary, in line with the superannuation guarantee, paid into a complying fund of their choice. In the absence of the member nominating a fund, the nine

per cent will be paid into a default fund determined by the Minister for Finance and Administration. However, there is little detail available as to the process by which the default fund is to be selected and I would be grateful if the minister could provide any information in this regard in the summing up of this somewhat minuscule debate.

The accompanying bill, the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004 provides for the closing of the PCSS to new members after the next election and suspends pensions being paid to former members and senators who re-enter parliament at the next federal election. These former parliamentarians will be subject to the new superannuation arrangements for their service from that election onwards. This bill also provides the means for new members and senators to salary sacrifice up to 50 per cent of their parliamentary salaries to their superannuation, which could deliver an advantage of bringing them in under the marginal tax rate of 30 per cent. Of course I welcome this legislation, but it needs further amendment and I will be listening carefully to the arguments in support of the amendments to be moved by the opposition and the member for Cunningham.

I am persuaded, after a lot of advice, of the difficulty of drafting, let alone moving, amendments that would wind up the scheme for existing members, and of the political impossibility of seeing this place pass such amendments. Yet we are putting in place a two-tier system, which in some respects is a beautiful irony because the very parliamentary super scheme we are debating here has been a two-tier system for many years with MPs, federal and state, enjoying benefits far in excess of those enjoyed by their constituents who are lucky enough to have superannuation arrangements. [start page 28421]

While I am mentioning the states, it is interesting to see how quickly they fell into line like a pack of cards the moment this issue was brought into the open by the Leader of the Opposition. I acknowledge he kicked open the door to expose this issue, or not to expose it—that had already been well done by non party members over many years—but to acknowledge and reinforce the strength of the message that he was hearing from the electorate. It has not only happened since he has been opposition leader. I must acknowledge that he has mentioned it at various stages during his backbench career and, indeed, his opposition frontbench career. He has been consistent on this matter and I commend him for that, but we must go further. There are amendments on the table and I will listen to the arguments carefully.

We are weaving a tangled mess in setting up a two-tier system—a mess of the political system's own making. It could have been sorted out years ago by having an honest and proper debate—an independent inquiry on parliamentary salaries that are attached to a superannuation scheme that is properly funded. Preferably it would be a marketplace scheme at arms-length from the interference of members as trust members and the influence of the government of the day—a scheme matching that available to our constituents.

All along we should have suffered the rises and falls of the marketplace and the battering that superannuation has suffered over recent years, as any of us who happen to have small superannuation savings and our constituents in the marketplace have recognised. There has been an absolute gutting of some people's savings in recent years because of the vagaries of the marketplace. If we are such disciples of the free market then why haven't we all along—in those 20-odd years of ecorationalism, where we have argued so strongly for the virtues of the marketplace in this post-Thatcher era—placed our own entitlements at the mercy of that very market that we go to the altar and pray to so regularly in this modern economic era? We could have done it but we did not.

That debate about parliamentary salaries needs to be held soon, with all current entitlements on the table. With all the privileges, and I deliberately say `privileges' and not `entitlements' of office, put on the table—including travel, car, phone, phonecard, cab card and study tours, and for ministers and prime ministers there is even more, including housing—let us have a proper debate about salary. That is the debate we always should have had, out of which, and only out of which, comes the super

guarantee of the day. If we do not think that that is good enough to guarantee long-term retirement benefits then we are in there with the rest of our constituents—we can adjust it, we can argue for it, we can suffer the pain and consequences of whatever legislation we put in place, and we are therefore party to the same standards that we apply to our constituents.

Many—including some commentators and business leaders—disagree that we should make the changes, saying that the existing scheme provides fair compensation. Let us have the debate, once and for all, about what we are worth. Let us have an honest debate about what we are worth. It may be that our Prime Minister, according to an independent assessment, is worth a million dollars or half a million dollars—whatever the figure might be. Let us not have this argument being used to justify hidden entitlements and accoutrements—entitlements that should be called privileges—that top up what are argued to be inadequate salaries. Let us have the proper debate. Maybe we could look at the Singapore example or some other constituencies around the world. Let us look at their schemes and their payments. Let us come up with a proper figure. Let us separate the debates and, once and for all, bring this largesse to an end, because it is the great disconnect between us and those we represent. [start page 28422]

**PARLIAMENTARY SUPERANNUATION BILL
SUPERANNUATION AND OTHER ENTITLEM
BILL 2004: Second Reading**

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.54 p.m.) —At the outset, the government would like to thank all those honourable members who participated in the debate—particularly the honourable member for Moncrieff, who made a very thought-provoking and worthwhile contribution. It will not come as a surprise to honourable members opposite that the government does not intend to accept the amendment moved by my friend the member for Kingston or indeed the other amendments proposed by the Independents.

The legislation currently before the chamber is the Parliamentary Superannuation Bill 2004 and also the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004. The first bill is part of a package which will put in place new superannuation arrangements for members who join the federal parliament at or after the next general election. This will involve a government contribution of nine per cent of the parliamentary salary of a member or senator paid to a complying superannuation fund or retirement savings account chosen by the senator or member or, where no choice is made, to a default fund. Honourable members would be aware that the government has brought this legislation into the chamber very quickly to deliver on the Prime Minister's commitment to align parliamentary superannuation with superannuation for the general community. The member for New England in his speech outlined some of the rather complicated issues in relation to parliamentary superannuation.

These changes build on the substantial changes that the Howard government made to parliamentary superannuation in 2001, which defer the payment of pensions in the existing parliamentary scheme until age 55 for new members and senators elected at or after the November 2001 election. That change imposed a higher standard of preservation on parliamentarians than applies to other Australians who receive pensions. These changes will not affect the superannuation arrangements for sitting members and senators, who will not be able to transfer to the new arrangements.

The government does not support retrospective changes to accrued superannuation. Of course, retrospectivity in most circumstances is a most undesirable thing. Such changes would not be in line with the superannuation arrangements applying generally in the community, which protect accrued superannuation entitlements. Existing senators and members will have made financial arrangements and commitments based on the expectation of continued membership of the current scheme. It would be unfair and inequitable to reduce their entitlements retrospectively.

The accompanying bill—that is, the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004—is also part of the package that delivers on the Prime Minister's commitment to bring parliamentary superannuation in line with current community standards. This bill amends the Parliamentary Contributory Superannuation Act 1948 to close the Parliamentary Contributory Superannuation Scheme to new members from the next election. The bill also provides for the suspension of a pension being paid to a former member or senator who rejoins the parliament from the next general election. The senator or member will receive superannuation for his or her new term of parliamentary service under the new arrangements to be provided for in the parliamentary superannuation act. The suspension of the pension will be lifted after the completion of that new parliamentary term. [start page 28434]

The bill also amends the Remuneration and Allowances Act 1990 to provide a salary sacrifice facility to members and senators covered by the new arrangements. This will enable them to supplement their superannuation through salary sacrifice. I listened with interest to the comments made by the honourable member for Chifley in relation to the valuable role carried out by the Remuneration Tribunal.

The government, as I said before, does not support the amendments moved by the opposition to retrospectively reduce the accrued entitlements under the PCSS of any existing MP or senator. The government does not support retrospective changes to accrued superannuation, and such changes, as I indicated before, would not be in line with the superannuation arrangements applying generally in the community which protect accrued superannuation entitlements. Also, existing senior ministers and office holders who would be affected by the opposition's proposed amendments to the bill have contributed a significant portion of their ministerial or office holder salary towards their accrued entitlements. I think most Australians would agree that it would be completely unfair and inequitable to retrospectively reduce their entitlements.

In the time available to me, I would like to turn to some of the individual remarks made by various honourable members, including the Leader of the Opposition, in this debate. The Leader of the Opposition claims that the government adopted Labor's policy on reducing an overgenerous parliamentary superannuation scheme. He referred in his speech to Labor's proposal to cap the benefits of the Prime Minister, senior ministers and senior office holders to the level of benefits payable to cabinet ministers. The member for Werriwa actually suggested that his own benefits would be reduced by something between half a million dollars and $1.9 million.

Let us look at the facts. The member for Werriwa's proposal was to close the parliamentary superannuation scheme and refer the matter of a new scheme to the Remuneration Tribunal. The Prime Minister in his announcement indicated that the government was going much further than this and has committed itself to bringing parliamentary superannuation into line with community standards by introducing legislation for a nine per cent accumulation scheme. Also under the proposal outlined by the Leader of the Opposition, any change would not occur until the election after next—that is, in 2007—whereas the amendments being proposed in these bills will take effect from the time of the next election. And you do not have to be a mental genius to be aware that it is highly likely that the next election will be held sometime during calendar year 2004.

The government has been particularly mindful of the concern expressed in the community and has acted immediately to bring about change to the current arrangements before the next election. As the Prime Minister has said, the government is always prepared to listen to a good idea, and I would like to thank the Leader of the Opposition for his support in facilitating the passage of these bills through the parliament in a timely way. However, in relation to his proposal to amend the current superannuation scheme to reduce the benefit entitlements of the Prime Minister, other senior ministers and office holders, the government does not support these amendments. The arrangements proposed by the government would ensure that all members of parliament, both existing and new, in future parliaments have their superannuation benefits based on their total parliamentary salaries, regardless of the amount of those salaries. When the Prime Minister announced that the government would close the PCSS and establish the new arrangements, he made it clear they would not be retrospective. This is why the bills are as they are: to implement the Prime Minister's commitments. Consequently, all existing MPs will remain under the existing arrangements. [start page 28435]

The member for Kingston would be well aware that this is consistent with past practice. When an Australian government closes an existing superannuation scheme for its employees and establishes a new scheme, such as occurred when the Commonwealth Superannuation Scheme was closed to new members in 1990, the accrued entitlements of the remaining members of the closed scheme are not reduced retrospectively. Of course, the CSS was closed during the time of a Labor government, when the member for Kingston may well have been an adviser to a senior minister in that government.

The Prime Minister, senior ministers and senior office holders entered parliament on a particular remuneration basis, and they have contributed their entitlements on that basis. Thus, it is not fair that people, just because they have obtained a very high level of office, should be prejudiced in the way that the member for Kingston and his leader would like to see them prejudiced. It would be unfair and inequitable to retrospectively reduce their entitlements when some senior parliamentarians have

organised their financial affairs on the basis of their accrued entitlements, which is not an unreasonable thing for anyone to do. Because of the superannuation industry supervision rules that protect the accrued benefits of members of superannuation schemes, this form of reduction would be prohibited in most other superannuation schemes.

It also raises the question as to whether past excess contributions based on those higher salaries should be refunded and whether ongoing contributions should be reduced. I think most people listening to this debate would agree that the amendment moved by the Leader of the Opposition is nothing more than a cheap stunt on the part of the opposition. It is just playing politics. Surely, if the opposition believes that it is appropriate that the Prime Minister should be paid a higher salary than a minister, it is entirely appropriate that the salary for superannuation purposes of that member should also reflect that differential. It is an absolute nonsense to say otherwise. The argument of the opposition is further weakened by the fact that it is only intending to apply the principle retrospectively. By not applying the same principle to the new scheme, the opposition is acknowledging that it is appropriate for the superannuation contributions of members to reflect their total parliamentary salary.

Any future Prime Minister, senior minister or senior office holder who joins the new arrangements will be treated exactly like any other new or returning MP. His or her nine per cent government contributions will be calculated on the basis of their total parliamentary salaries. Not to allow the Prime Minister, senior ministers and senior office holders to continue to contribute to superannuation and to receive superannuation benefits based on their total parliamentary salaries would therefore be inequitable. It would also be inequitable not to allow existing MPs who in the future may become the Prime Minister, a senior minister or a senior office holder to contribute to superannuation and receive benefits based on their total parliamentary salaries under the PCSS. [start page 28436]

In relation to the comment made by the Leader of the Opposition about sacrificing his own superannuation, it is just farcical to suggest that the Leader of the Opposition would in some way, shape or form save the Australian taxpayer $1.9 million. A simple calculation of the facts indicates that, for the Leader of the Opposition to save the Australian taxpayer $1.9 million—in other words, for his own benefits to be cut by that amount—he would have to be Prime Minister for a very long time. It is not certain at all that he will ever be Prime Minister, and it would be a very unfortunate state of affairs if at the election later this year the people of Australia were to elect the Leader of the Opposition to the most important office in the land, which has been very well carried out by the current Prime Minister.

I always listen very carefully to the thoughtful contributions of the member for Chifley, who has been here for a long time. He brings to this place a reflection on life's experience. We all are, of course, the collection of our life's experiences. I was interested to hear that the member for Chifley said that the bills should require a compulsory superannuation contribution from MPs covered by the new nine per cent arrangements. The new arrangements are the same as those applying generally in the community, which do not require compulsory member superannuation contributions.

The member for Calare, who disagrees with the government—although he did give the government credit for the extent that the bills currently traverse—welcomed the bills but said they did not go far enough and referred to his claim that existing members should be able to opt in to the new superannuation arrangements. He will be disappointed to know that the government is not going to support that particular amendment.

Mr Andren —Why not?

Mr SLIPPER —When you speak to it, I will certainly be giving you the government's response. The member for Cunningham also welcomed the bills but claimed that they did no go far enough. He had a point of view that no-one else in the parliament would share, and I suspect that no-one in the

community would share, namely that the current scheme is a rort and should be closed down. What we have at the moment is a reform of superannuation arrangements in accordance with community expectations. I think it would be entirely inappropriate to suggest that this bill in some way is a rort. When the Prime Minister announced that the government would close the existing scheme and establish the new arrangements, he made it clear they would not be retrospective, and I think most people would accept that that is a pretty fair point of view.

There has been a good debate in relation to these bills. There has been some politicking and misinformation, particularly on the part of the Leader of the Opposition, but I am pleased that there appears to be sufficient consensus to ensure a speedy passage of these bills through the House after the opposition and Independent amendments are disposed of. I would like to commend to the chamber, on that basis, both of these two important pieces of legislation which deliver on the Prime Minister's commitment.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

PARLIAMENTARY SUPERANNUATION BILL 2004; SUPERANNUATION AND OTHER ENTITLEMENTS BILL 2004: Consideration in Detail

Mr ANDREN (Calare) (6.18 p.m.) —I move:

Clause 5, page 4 (lines 31-32), omit paragraph (1) (c), substitute:

(c)the person;

(i) was not entitled to a parliamentary allowance immediately before that time, or

(ii) if the person was entitled to a parliamentary allowance immediately before that time, the person has given to the administering authority a notice in writing signed by the member stating that the member has elected to cease to make contributions to the scheme established by the Parliamentary Contributory Superannuation Act 1948 and to become instead subject to the scheme established by this Act.

My amendment is to the Parliamentary Superannuation Bill 2004. In moving my first amendment, which provides for any sitting member, if re-elected, to opt into the new arrangements, I would like to put on the record that much has been made of the idea of re-establishing trust and confidence in the electorate, yet neither major party is prepared to apply these new super arrangements to themselves. This hardly re-establishes the trust that we want to achieve. In fact, it reinforces the opinion of many that there is no will to bring parliamentary entitlements into line with normal community standards.

There have been backbench revolts on both sides, as I understand it, making the application of the new arrangement to all MPs politically impossible—as we have seen in the most recent division. They are supported by plenty of technical arguments, as I said earlier, and the advice I have had is that, with just compensation and such, it may be impossible. But again, as I said, this imbroglio is being created by the precipitate way in which this whole thing has been brought on in recent months. I propose to amend this legislation to allow sitting members and senators the choice to opt in to the new scheme, consistent with my two private member's bills on MPs' superannuation. A voluntary `opt in' clause will negate the need for just compensation and the natural justice argument that members cannot be forced to accept a retirement scheme that is less than the one they currently have.

It also has a strong precedent in the Western Australian parliamentary superannuation scheme, which successfully incorporated a clause—I think it was the Carpenter clause—to allow Western Australian state members to transfer from their outdated pension scheme into a new one, which also applies only to new members of that parliament. I understand the opposition is of a mind not to support my amendment, and yet they are seeking support for their own amendments to cap the entitlements of senior office holders in this place. I suggest that, if they really want to achieve any sort of acceptance in the general community around the issue that they are arguing, they should look at their own colleagues in Western Australia and the precedent set there in that parliament by members of their own party to provide for members who wish to to opt in to the new arrangements or, as the tenor of my private member's bills suggested, enable any member to make a choice of superannuation in accordance with the sorts of policies that we are attempting to put into the general legislative framework for the community. [start page 28439]

It is possible to include my amendment with no impediment to the intended function of the new federal parliamentary superannuation scheme. As I said, I anticipate this will not receive any support by members who wish to avoid this opt in, because I understand it may be regarded as more of a `shame in'. It has not achieved that in Western Australia; it has been accepted as part and parcel of the human rights of any member, any individual, to make their own arrangements according to their own savings.

The DEPUTY SPEAKER —Order! The member for Calare will resume his seat for a brief period. Will those members on my left please either leave the chamber for discussions and conversations, or hold them quietly. The member for Calare has the call and is entitled to be heard.

Mr ANDREN —There is no shame in receiving fair remuneration for your work. If members consider the superannuation component of their remuneration fair and just, there is no shame to them in accepting it. But, if members feel they will be shamed into giving up their retirement bounty, they recognise that there is something seriously wrong with their retirement allowances under the current system. The fact we have these bills before us is recognition enough that the PCSS is not only no longer relevant in today's working environment but glaringly outrageous in comparison to community standards.

I wrote to the Prime Minister in November last year, before both sides of politics rushed to join in our efforts to reform parliamentary superannuation, asking him about the likelihood of my private member's bill being debated in this place. I received my answer, with apologies, from the Minister Assisting the Prime Minister in April this year. The Prime Minister had by this time announced his new plans for MPs' super, following of course the lead taken by the Leader for the Opposition, who in turn, as I said, took the lead from several decades of effort, particularly by the honourable Ted Mack. But his answer made clear that there would be no retrospective alteration. There is no explanation as to the reasons. I will listen with interest to the parliamentary secretary. I say that there are no acceptable reasons for the government's, and indeed the opposition's, stand against an `opt in' clause. I urge both sides to accept my amendment allowing members who disagree with the MPs' super scheme the choice to remove themselves from it. I commend the amendment to the House.

Parliamentary Secretary's response to first Andren amendment

PARLIAMENTARY SUPERANNUATION BILL 2
SUPERANNUATION AND OTHER ENTITLEME
BILL 2004: Consideration in Detail

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (6.25 p.m.) —The member for Calare has essentially answered the matter raised in his amendment in his own speech. The government is not prepared to accept any level of retrospectivity with respect to this matter. The Prime Minister, when he made his announcement, said there would be no retrospectivity and that all existing members and senators would remain under the existing scheme, and that is what I said in my initial contribution. It is in keeping with general practice. When superannuation schemes have been altered in the past, existing members have been grandfathered. I think there is a longstanding principle that entitlements ought not to be fiddled with in a retrospective way, and these bills are all about the future. There was an acceptance that there needed to be some change in the way parliamentarians are superannuated following their retirement; however, the feeling was that what is usual practice should be usual practice in this case. The whole idea of course is to bring parliamentary superannuation more in line with community norms, and the way that there is no retrospectivity is in keeping with community norms. In the way that schemes have been altered in the past, existing members have simply not been affected. [start page 28440]

Additional comments from Peter Andren re the Parliamentary Secretary's response

PARLIAMENTARY SUPERANNUATION BILL 2
SUPERANNUATION AND OTHER ENTITLEME
BILL 2004: Consideration in Detail

Mr ANDREN (Calare) (6.26 p.m.) —I just want to comment on the parliamentary secretary's statement. This is not about retrospectivity, in the sense that it is an arrangement that has been made in an Australian parliament. As I understand it, without any challenge, there is no just compensation involved in the process and there are no legal ramifications. There is an acceptance under the procedures I have set out in my second amendment—which I will be moving in a moment—that quite clearly establishes the procedure to enable a member to opt in to new arrangements or indeed opt in to a super scheme of his or her own choice. For the parliamentary secretary to argue that there are problems with retrospectivity and, by inference, with just compensation is a nonsense.

Parliamentary Secretary's final response to the first Andren amendment

PARLIAMENTARY SUPERANNUATION BILL 2004 [No. 2] AND SUPERANNUATION AND OTHER ENTITLEMENTS LEGISLATION AMENDMENT BILL 2004: Consideration in Detail

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (6.27 p.m.) —Without wanting to traverse the areas I have already covered, the fact that a parliament in a state takes a certain course of action does not make it right, does not make it proper and does not make it equitable. The fact is that, when this announcement was made, it was intended to be prospective; thus all existing members will remain under the arrangements made at the time they commenced their parliamentary service. There will be no retrospectivity.

The DEPUTY SPEAKER —The question is that the member for Calare's amendment be agreed to.

A division having been called and the bells having been rung—

The DEPUTY SPEAKER —As there are fewer than five members on the side for the ayes, I declare the question negatived in accordance with standing order 204. The names of those members who are in the minority will be recorded in the *Votes and Proceedings*.

Question negatived. Mr Andren, Mr Organ and Mr Windsor voting aye.

Bill agreed to.

PARLIAMENTARY SUPERANNUATION AND O' AMENDMENT BILL 2004: C

Mr ANDREN (Calare) (6.48 p.m.) —Before moving my amendment, I want to say, for the convenience of members in the House, that I will not be seeking a division. I move:

Schedule 1, page 12 after item 18 (after line 21) add:

19 Assessment of benefit payable in respect of Member who has elected to leave the scheme

(1)This clause applies in respect of a person who has made an election under subparagraph 5 (1) (c) (ii) of the Parliamentary Superannuation Act 2004 to cease to make contributions to the scheme established by this Act and to become instead subject to the scheme established by the Parliamentary Superannuation Act 2004.

(2)As soon as practicable after the Parliamentary Superannuation and Other Entitlements Legislation Amendment Act 2004 receives the Royal Assent the Remuneration Tribunal shall inquire into and report on:

(a)a formula for calculating any benefits payable with regard to contributions made under this act to or in respect of a person who has made an election under subparagraph 5 (1) (c) (ii) of the Parliamentary Superannuation Act 2004 **(termination benefits)**

(b)when and in what circumstances termination benefits shall be paid;

(c)to whom termination benefits may be paid;

(d)the portability of termination benefits;

(e)the legislative amendments necessary to give effect to, and authorise payments in respect of, termination benefits, and

(f)any other matter relevant to the calculation or payment of termination benefits that the Tribunal thinks fit.

This amendment is necessary to provide the legislative mechanism for the earlier amendment that I moved. It provides for the mechanisms by which members and senators who elect to opt into the new parliamentary scheme would have an equivalent termination benefit determined and transferred to a fund of their choice. The tribunal will be directed to inquire into and report on a formula to calculate those benefits. As I said earlier, the Western Australian parliamentary superannuation scheme provides the strongest of precedents in support of my amendment for an opt-in clause to be included in the legislation.

Under the WA scheme, the state Salaries and Allowances Tribunal was empowered to determine the conditions under which members could elect to remove themselves from the Western Australian parliamentary pension scheme and it has done so successfully, despite what the Parliamentary Secretary to the Minister for Finance and Administration might argue in negating and opposing this particular process. The inclusion of this opt-in clause for the federal scheme is not only possible but workable.

For the record, my option would allow an amount to be determined by the Remuneration Tribunal to be transferred to the scheme of new members should I be re-elected. Should I not be re-elected, I have made arrangements for at least the lump sum component of any pension benefit I receive to be used for public benefit. I urge the government and opposition to support the inclusion of this amendment in the bill.

Parliamentary Secretary's response - Andren Amendment to the 'Other Entitlements' Bill 2004

PARLIAMENTARY SUPERANNUATION AND OT AMENDMENT BILL 2004: Co

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (6.50 p.m.) —The amendment to the previous bill, the Parliamentary Superannuation Bill 2004, moved by the member for Calare was defeated by the House. This amendment to the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004 is clearly not going to get the support of the House. The government oppose the matters raised by the member for Calare, and we ask that the amendment moved by the member for Calare be rejected by honourable members. [start page 28444]

Question negatived.

Bill agreed to.