Superannuation, MPs and Trust

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Abstract

Politicians' reputations are in decline and part of the reason for this is the excessively generous nature of the parliamentary superannuation scheme. It bestows benefits on parliamentarians which are far in excess of those they have granted to the majority of Australians. After the October 2004 federal election this will change, but only for parliamentarians elected for the first time in that election. The change will not affect those who were elected prior to that date. Indeed, unless the parliament passes legislation which breaks the link between a backbenchers salary and superannuation benefits for existing parliamentarians there is the strong likelihood that they will be the beneficiaries of a windfall gain. If that happens people's trust in parliamentarians could decline even further.

Introduction

Members of parliament (MPs) formulate policy and pass the laws by which society is governed. In doing so they determine the degree of accountability and transparency that applies to all, including in some instances laws that determine financial benefits for themselves.[1] This places them in the privileged situation whereby Caesar is giving to Caesar. To maintain the respect and confidence of those they govern, such a privileged position requires that their decisions reflect the highest standards of equity, fairness and transparency. However, opinion poll data indicate that the community does not believe parliamentarians' conduct reflects those standards.

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1 Commonwealth Parliamentarians' salaries are linked to the salaries in a Principal Executive Office (PEO) Classification Band A, which are determined by the independent Remuneration Tribunal.

In 1976, only twenty per cent of people thought that parliamentarians were honest and ethical. By 2003, this figure had fallen to sixteen per cent.[2] A contributing factor to their poor reputation is MPs 'perks', which includes the way in which parliamentarians have granted themselves superannuation benefits they have not been prepared to extend to those they serve. The depth of community anger about the Parliamentary Contributory Superannuation Scheme (PCSS), expressed to a Senate Select Committee on Superannuation and Financial Services in 2001,[3] reflects the level of resentment.

The committee received more than 2500 submissions of which 80 were standard submissions. They also received thirty-five petitions with approximately 1500 signatures and well over 600 emails. Sixteen people were called as witnesses, seven of whom were 'ordinary' members of the community who had submitted in a private capacity. The feelings of these 'ordinary' people, clearly articulated in the following quotes, point to an unhealthy perception of a 'them and us' divide: them (the people's elected representatives) not respecting or representing the views and interests of us, (the people who elected them).

One person who appeared before the Committee drew a comparison between parliamentarians and people working in the private sector. He noted that:

> the private sector works just as hard, with just as long hours, as politicians do, and I do not believe that the same privileges are being afforded to those of us who contribute to superannuation schemes voluntarily for 38 to 40 years. We walk away, in fact, with less than is available to a politician who is elected for a term of government.[4]

Focusing on the funding of the PCSS, another 'ordinary' person made the point that:

> in today's climate of job uncertainty, failed businesses not protecting employee entitlements and forced redundancies without payments, the average PAYE taxpayer has every right to be cynical of politicians who, by their apparent sheer arrogance, appear ever willing to isolate themselves from reality and the rules they made for others. That is not a recipe for respect or popularity. No other sector of the work force has its benefits guaranteed by legislation and so heavily funded by the taxpayer.[5]

Other comments by members of the community highlight further the 'them and us' divide. An issue of concern for one person was the way 'the current scheme is . . .

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[2] The Roy Morgan Research Centre, Paper No. 2003090, 5 September 2003. http://www.roymorgan.com/news/papers/2003/20030901/

[3] Senate Select Committee on Superannuation and Financial Services, *Report on the Provisions of the Parliamentary (Choice of Superannuation) Bill 2001*, tabled on 9 August 2001 http://www.aph.gov.au/senate/committee/superfinan_ctte/

[4] Senate Select Committee on Superannuation and Financial Services, 11 July 2001, p. 46.

[5] Senate Select Committee on Superannuation and Financial Services, 11 July 2001, p. 47–48.

actually skewed out of kilter in regard to the general community'.[6] Another, referring to 'the gross generosity of the scheme [and] all the associated perks', noted 'how un-Australian' it is. This person went on to remark that parliamentarians 'are supposedly representatives of the community, yet they show such massive disregard for the community in relation to the conditions of a superannuation scheme of their own design.'[7]

Dissenting Voices

It should be noted that not all parliamentarians have been comfortable with the extremely generous and skewed nature of the PCSS. But the dissenting voices have been few and have largely belonged to the minor parties (Australian Democrats and Australian Greens) and the independents. Two independents, Ted Mack (a former state and federal MP) and serving federal MP Peter Andren, who have made repeated public comments on the generosity of the PCSS, echo those expressed by the Australian community.

Andren in particular has been most strident in his criticisms of the PCSS. In an effort to address 'the divide between parliamentarians and those they represent',[8] he introduced a Private Member's Bill on 5 March 2001, the Parliamentary (Choice of Superannuation) Bill 2001, designed to give Federal MPs the choice of opting out of the compulsory superannuation scheme. Three weeks later the Bill was referred to the Senate Select Committee on Superannuation and Financial Services by the leader of the Australian Greens, Senator Bob Brown. Andren, when appearing as a witness before the Committee (the only MP to do so) argued that 'we should not have in place, I believe, standards that we set for ourselves or are set for us that are different from those applying to the majority out there in our electorate, and it is as simple as that'.[9]

Andren's 2001 Bill was not debated by the parliament but the level of public interest it generated, particularly through the electronic media, forced the government to act. On 3 June 2001, the Minister for Finance and Administration, John Fahey announced changes to the PCSS.[10] He explained that:

> The proposed amendments will bring the Parliamentary Superannuation Scheme into line with community standards and will ensure that Members and Senators who join the Parliament after the next election will not be entitled to receive their parliamentary pension before the age of 55.

The Prime Minister, John Howard, and other parliamentarians also heralded the amendments as examples of the way in which MPs' superannuation was being

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6 Senate Select Committee on Superannuation and Financial Services, 11 July 2001, p. 49.
7 Senate Select Committee on Superannuation and Financial Services, 11 July 2001, p. 49–50.
8 Peter Andren MP, House of Representatives, *Hansard*, 5 March 2001, p 24934.
9 Senate Select Committee on Superannuation and Financial Services, 11 July 2001, p. 40.
10 *Sydney Morning Herald*, 'Fahey signals review for MPs super benefits', 4 June 2001.

brought into line with community standards.[11] However, the changes, enacted through the *Parliamentary Contributory Superannuation Amendment Act* 2001 did little to align the parliamentary superannuation scheme with the community norm. The preservation amendment only applies to parliamentarians elected after the November 2001 election. Current members of parliament elected prior to that date — of which there are many — remain quarantined from the rules that apply to all other members of the community.[12] This change only tinkered at the edge of an 'indefensible scheme'. As a result parliamentarians' superannuation continued to be a source of community resentment and served to further broaden the 'them and us' divide.

In February 2004 the Leader of the Opposition, Mark Latham foreshadowed that a Labor Government would change the superannuation rules applying to all MPs elected, for the first time, after the 2007 election.[13] This was not the first time Latham had expressed his disquiet about parliamentarians' superannuation. In November 2000 in the Main Committee of the House of Representatives he raised the issue asking 'why should parliamentarians have a different set of superannuation rules from the general community?' Latham went on say that he would 'like to see the system . . . move towards the 55 years preservation arrangement, first and foremost, and then, over time, to normalize the other details of the scheme'. Noting that any change to the existing scheme could not 'be made retrospective' he argued that changes 'could easily apply to new members of parliament from the next election and, over time, parliamentary superannuation would be brought into line with that available to the rest of the community'.[14]

Recent Changes

Latham's February 2004 announcement was couched in stronger language than his 2000 comments. This year he acknowledged that parliamentarians' superannuation was 'well outside the community standard'. Indeed, he noted that it was 'seven times more generous than the current contribution scheme available to the general public'.[15] Latham also admitted 'that appalling double standards with the

[11] Parliament of Australia, Department of the Parliamentary Library, *Bills Digest* No. 51, 2001–02, Parliamentary Contributory Superannuation Amendment Bill 2001, http://www.aph.gov.au/library/pubs/bd/2001-02/02bd051.htm accessed 26 September 2002.

[12] There are other exceptions. The 55 preservation rule does not apply if a parliamentarian's retirement is on 'invalidity' or there are other special circumstances such as financial hardship or compassionate reasons for needing to access benefits. For statistical information on the composition of parliament, see http://www.aph.gov.au/library/handbook/parliament/stats/composition.htm

[13] http://www.alp.org.au//media/0204/20006801.html

[14] Mark Latham. House of Representatives Main Committee, *Hansard*, 2 November 2000, p. 22099.

[15] Mark Latham, 'Parliamentary Superannuation', *Media Statement*, 10 February 2004 http://www.alp.org.au/media/0204/msfll100.php

superannuation scheme [had] . . . become a major source of public dissatisfaction and cynicism in modern politics'.[16]

Two days after Latham's announcement, the Prime Minister John Howard declared that the government would act immediately to bring the superannuation benefits of MPs, elected for the first time after the 2004 election, into line with that of the general community. Denying that he was 'playing catch up' with Labor, Howard went on to explain that he was acting so swiftly because 'if a good idea is raised it ought to be dealt with immediately [and] I will do so'. Howard also acknowledged, 'The reality . . . is that there is a community perception that this super's too generous'. However, he qualified this by saying that 'I think the overall package is not too generous, but people think the super's generous'.[17]

The Parliamentary Superannuation Bill 2004 and the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004 were introduced into the House of Representatives on 1 April and were subsequently referred to the Senate Finance and Public Administration Legislation Committee for their consideration. The Committee recommended that the Bills be passed by the Senate and 'that early in the life of the new Parliament, the Remuneration Tribunal be asked to review the complete package of parliamentary entitlements, including salary and other entitlements and retirement benefits'.[18] The corresponding Acts received assent in June 2004.

Multiple Schemes

As a result of the recent policy changes federal parliamentarians will, after the October 2004 federal election, operate under three different parliamentary superannuation schemes. The details of these schemes are outlined below. To avoid confusion they have been labelled (rather unimaginatively) Scheme A, Scheme B, and Scheme C. After examining these schemes the author concludes by suggesting that a flow-on effect from the introduction of Scheme C will be a significant increase in MPs salaries. This is based on the prediction that parliamentarians, elected for the first time at the October 2004 federal election, will seek an increase in their base salary to compensate for the significantly reduced 'package' they will receive compared to their colleagues who entered federal parliament prior to the October election.

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[16] Mark Latham, 'Parliamentary Superannuation', Interview with John Laws on Radio 2UE, *Transcript*, 11 February 2004 http://www.alp.org.au/media/0204/rifll110.php and Mark Latham, 'Parliamentary Superannuation', *Media Statement*, 10 February 2004 http://www.alp.org.au/media/0204/msfll100.php

[17] Prime Minister John Howard, 'Howard announces new MP superannuation rules', ABC PM, 12 February 2004, http://www.abc.net.au/pm/content/2004/s1043892.htm

[18] http://www.aph.gov.au/library/inguide/POL/praa.html

Scheme A

Under the PCSS, Federal MPs and particularly those who have not sustained a parliamentary career long enough to be eligible for a pension have received generous benefits. These people are deemed to have 'involuntarily' retired from their chosen career — involuntary retirement being defined as loss at an election or loss of pre-selection.[19] While not entitled to a pension, they are eligible to a lump sum payment that consists of their contributions and a 'supplement', the supplement being two and one third times the MP's contributions. If they retired from parliament 'voluntarily', their lump sum payment is reduced to one and one sixth times the contributions they paid.

Nothing like this has been or is available to the average Australian. Parliamentarians have granted themselves superannuation benefits they have not been prepared to grant to other public servants and the general community. They have looked after their own, including those who have been members of the parliamentarians' 'club' for only a short period of time.

Retiring Allowance

The rate of the retiring allowance, which is tied to a back-bencher's salary (currently $106,770) is a function of a person's years of service. The following table outlines the rates:

Years of Service	Percentage of Parliamentary Allowance
8	50
9	52.5
10	55
11	57.5
12	60
13	62.5
14	65
15	67.5
16	70
17	72.5
18 or more	75

Source: Department of Finance and Administration, 'Parliamentary Contributory Superannuation Scheme'. http://www.finance.gov.au/super/parliamentary_leaflet.html

[19] Parliament of Australia, Department of the Parliamentary Library, *Bills Digest* No. 51, 2001–02, Parliamentary Contributory Superannuation Amendment Bill 2001, http://www.aph.gov.au/library/pubs/bd/2001-02/02bd051.htm accessed 26 September 2002.

From the above table it is easy to see why the rate of pensions for parliamentarians in Scheme A is seen by members of the community to be an abuse of MPs' privileged position. It shows just how out of touch current elected representatives are with community standards, and even with the more generous standards enjoyed by some other parts of the public sector.

An MP who retires voluntarily receives a pension after twelve years of service, or four terms. Four terms is based on the last four parliamentary terms which translates into eleven years and two months of service.[20] A parliamentarian who involuntarily retired after nine years service would only have to be in receipt of a parliamentary pension for three years before they would have received more than they contributed. If they retired at 56 years of age and lived for another twenty years, on today's figures they would receive over a million dollars ($1,000,000) from approximately a $100,000 contribution. Of course, in real terms, that figure will be considerably higher as the pensions of parliamentarians in Scheme A is tied to a backbencher's salary and these will rise considerably over the next twenty years.

Spouses

The generosity of Scheme A continues. It extends to the spouses of certain deceased members of parliament in a way that is not equitable. To elucidate further: if a parliamentarian dies while a member of parliament, their spouse receives a pension, irrespective of the length of the deceased MPs' service. The proviso is that the marital relationship commenced before the parliamentarian's retirement from parliament, and if the relationship was entered into after the parliamentarian retired it had to take place before the MP was 60 or at least five years before his or her death.[21]

The following hypothetical situation highlights further the skewed nature of the scheme. Assume that in January 2001 a person was elected to Parliament and on 1 September 2002 he or she married a 42 year old person. Sadly, one month after the marriage in October 2002 the parliamentarian dies. The widow or widower would be entitled to a pension for life and would continue to receive that pension even if they were to remarry. The pension is five-sixth of what the former parliamentarian would have been entitled to, and even though their length of service is well under the eight year threshold needed to receive a pension, they are deemed to have completed eight years of service as a parliamentarian for the purpose of the spouse's pension calculation.[22] This translates into five-sixth of fifty per cent of the $106,770

[20] Based on the following parliamentary terms: 36th parliament (24/03/1990-08/02/1993); 37th parliament (13/03/1993-29/01/1996); 38th parliament (02/03/1996-31/08/1998) and 39th parliament (03/10/1998-08/10/2001). See http://www.aph.gov.au/library/handbook/historical/chronology.htm

[21] Department of Finance and Administration, *Parliamentary Contributory Superannuation Scheme Handbook*, 2001, p. 11–12.

[22] Department of Finance and Administration, *Parliamentary Contributory Superannuation Scheme Handbook*, 2001, p. 11–12.

backbencher's salary referred to above, which would equal approximately $44,487 a year. This amount would rise as backbenchers' salaries rise, as the spouse's pension is also linked to a backbencher's salary.

How has such generosity been possible? Part of the answer lies in the fact that parliamentarians have awarded these benefits to their spouses. There has been no input from the people funding the benefit—the community. A further examination of the Parliamentary Contributory Superannuation Scheme (PCSS) reveals other examples of the extreme generosity of Scheme A.

Defined Benefits

The Parliamentary Contributory Superannuation Scheme is 'an unfunded defined benefit scheme'. This means that the PCSS funds its benefit payments from 'annual appropriations as part of the Commonwealth Budget'. In other words, taxpayers fund parliamentarians' superannuation.[23]

In defined benefit schemes each beneficiary receives a retirement benefit according to a defined formula irrespective of the income of the fund. If there is a shortfall between fund income and benefits paid, the employer has responsibility for providing the difference. In the case of federal MPs in Scheme A, the contribution by the prospective beneficiaries is 11 per cent of salary for the first eighteen years of membership and 5 per cent after eighteen years service.[24]

As explained in the Bills Digest:

> in order to fund a politician's superannuation benefit, the Commonwealth contributes the equivalent of 69.1 per cent of a politician's total salary. In comparative terms, this level of employer funding of a superannuation benefit is extremely generous. The generosity of the scheme is demonstrated by comparing it with other superannuation schemes operated by the Commonwealth for its public servants.[25]

The level of employer assistance for parliamentarians is three times that given to members of the Commonwealth Superannuation Scheme and 5.3 times that

[23] Parliament of Australia, Department of the Parliamentary Library, *Bills Digest* No. 51, 2001-02, Parliamentary Contributory Superannuation Amendment Bill 2001, http://www.aph.gov.au/library/pubs/bd/2001-02/02bd051.htm accessed 26 September 2002.

[24] Parliament of Australia, Department of the Parliamentary Library, *Bills Digest* No. 51, 2001-02, Parliamentary Contributory Superannuation Amendment Bill 2001, http://www.aph.gov.au/library/pubs/bd/2001-02/02bd051.htm accessed 26 September 2002.

[25] Parliament of Australia, Department of the Parliamentary Library, *Bills Digest* No. 51, 2001-02, Parliamentary Contributory Superannuation Amendment Bill 2001, http://www.aph.gov.au/library/pubs/bd/2001-02/02bd051.htm accessed 26 September 2002.

specified for the Public Sector Superannuation Scheme.[26] The Parliamentary Contributory Superannuation Scheme for existing members borders on the indefensible.

Scheme B

As mentioned above, indignation about MP's superannuation scheme, which was perceived to be 'overly generous and not aligned with community standards' eventually forced the Federal Government to act.[27] On 18 July 2001 the *Parliamentary Contributory Superannuation Amendment Act* 2001 came into force. The exclusive privilege parliamentarians had in terms of access to lump sum superannuation benefits was removed for parliamentarians elected for the first time in 2001. In line with other Australians, this group of Federal parliamentarians' lump sum benefits can no longer be accessed until preservation age, which is currently 55. By 2005, the preservation age will be 60 for those born post June 1964.

But this is the only significant change. In all other respects members in Scheme B will continue to enjoy the financial benefits of those who belong to Scheme A, which have been outlined above.

Scheme C

The Parliamentary Contributory Superannuation Scheme (PCSS) will be closed to all new members elected to the House of Representatives and the Senate after the October 2004 election. To bring them into line with current community superannuation standards, they will be subject to an accumulation scheme that attracts an employer contribution of nine percent.

A summary of the changes to the parliamentarians' superannuation benefits were detailed in a media release by the Senator for Finance and Administration, Nick Minchin.[28] They are:

- Contributions to the Accumulation Scheme will be paid to a complying superannuation fund selected by the member of parliament.
- The salary base for the government's nine per cent contribution is a parliamentary back-benchers salary plus additional salaries for Ministers and other officer holders.

[26] There are two Commonwealth Superannuation Schemes in existence at the moment: the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS) both of which are schemes for Commonwealth Public Servants. The notional employer contribution (as a percentage of total salary) is 23 and 13 per cent respectively. The CSS is a closed scheme. It closed in 1990 and was replaced by the PSS.

[27] http://www.aph.gov.au/library/inguide/POL/praa.html accessed 9 September 2004.

[28] Senator Nick Minchin, 'Parliamentary Superannuation Changes', *Media Release*, 23 March 2004

- Former federal MPs who are re-elected to parliament must join the nine per cent Accumulation Scheme as new members. If he/she is in receipt of a parliamentary pension, that pension will be suspended while they remain as parliamentarians.
- Former State MPs elected to the federal parliament after the October 2004 election will join the Accumulation Scheme
- Sitting MPs will not be permitted to transfer to the new Accumulation Scheme.

Based on the overly generous entitlements that members of Scheme A and B receive, it is highly unlikely that many would be seeking to transfer to the nine percent employer contribution scheme. But even those who want are prevented by law from doing so.

Conclusion

The most (disproportionately) lucrative scheme applies to MPs elected pre-2001. These parliamentarians superannuation benefits are indexed to a backbencher's salary and their entitlements can be accessed at any age provided the parliamentarian has served a term of eight years. The next most generous scheme applies to politicians elected between 2001 and 2004. This Scheme is identical to that which applies to MPs elected pre 2001 in terms of financial benefits but not quite as generous in relation to accessing the superannuation 'nest egg'. Like all other Australians, this group of parliamentarians can only obtain their superannuation after 55 years of age.

Yet another scheme will apply to politicians elected for the first time at the October 2004 federal election. These MPs will be only entitled to the same employer contributions that apply to the vast majority of working Australians.

The consequence of having a three-tiered system of superannuation benefits for MPs may lead to some negative outcomes. It could cause considerable friction between politicians who sit in the same parliament performing exactly the same role. Some will be the recipients of the extremely generous Scheme A and Scheme B superannuation benefits, which attract a 69 per cent employer contribution in a defined benefit scheme. Other parliamentarians will receive only the community standard of nine per cent employer contributions. This difference could continue for a long time, indeed it some instances for well over 20 years.

It is not unreasonable to expect the group of parliamentarians belonging to Scheme C to seek an increase in their base salary in an attempt to bridge the gap between their remuneration package and that received by members of Scheme A and B. However, if the post-2004 first timers are successful in their bid for some sort of parity through a salary increase, the beneficiaries will include the same MPs with whom they are seeking parity. Indeed, unless legislation is introduced which breaks the link between superannuation benefits and a backbencher's salary for recipients

of Scheme A and B, they will receive a significant windfall gain from a salary increase. If this were to happen it is likely to add to the level of cynicism the community feels toward parliamentarians.

To try and address the declining trust issue, the debate about MPs' salaries needs to proceed from first principles. An independent inquiry into MPs salaries and entitlements is one option. This would allow all stakeholders, and not just the government appointed Remuneration Tribunal, to have input into the determination of reasonable levels of remuneration for back-benchers and other office-holders including parliamentary secretaries, presiding officers, party leaders, ministers, the deputy prime minister and the prime minister. Another option would be for the government to establish an open, public process for future reviews of parliamentarians' remuneration, comparable to the Australian Industrial Relations Commission that decides wages and conditions on behalf of ordinary Australians.

A more open process would allow this important but sensitive issue to be debated in a transparent manner. It may also stop MPs trying to top up their salaries in ways that lead to the community perception that parliamentarians cannot be trusted. ▲