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National President

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Committee Secretary
Senate Finance and Public Administration Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Inquiry into the Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill 2010

Dear Sir/Madam,

The Returned & Services League of Australia strongly supports a fairer indexation system for the defence and military superannuation schemes. Please find enclosed the RSL's submission on this issue.

Should the Committee conduct a public hearing on the Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill 2010, I would wish to give an oral presentation in support of the RSL's position at the hearing.

Yours faithfully,

Rear Admiral Ken Doolan, AO, RAN (Retd)

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THE PRICE OF LIBERTY IS ETERNAL VIGILANCE

INDEXATION OF MILITARY SUPERANNUATION PAYMENTS

A Submission to Government

by

The Returned & Services League of Australia

1. Introduction

- 1.1 Indexation of payments to beneficiaries of Australia's three military superannuation schemes is provided for in relevant legislation and reflects a long standing intention of the Commonwealth Parliament that military superannuation pension entitlements should not erode in purchasing power over time.
- 1.2 This aim has not been achieved because Governments have used the Consumer Price Index to adjust military superannuation payments. This index is a measure of inflation and does not adjust for cost of living increases.
- 1.3 A consequence is that military superannuants have experienced a steady decline in the purchasing power of their pensions with some having to resort to demeaning requests for financial assistance.

2. Executive Summary

- 2.1 This submission:
 - a. advocates the adoption of an indexation regime for military superannuation pensions matching cost of living increases;
 - b. demonstrates that the nexus between military superannuation schemes and other Commonwealth superannuation schemes for indexation of payments is a policy aberration, is inconsistent with the legislative base of the schemes, is unjust and we recommend it be abandoned;
 - c. contends that the findings of the 2008 review of the indexation of superannuation are questionable and its recommendations unsafe because the inquiry terms of reference did not recognize the fact that the Commonwealth Parliament has thrice legislated for military superannuation schemes separate from civilian superannuation schemes;
 - d. shows a divergence between the intent of the Parliament and the actions of Governments in dealing with the indexation of military superannuation and the need for separate boards of management for military superannuation schemes to include military representatives;
 - e. acknowledges that an extra cost to the taxpayer is involved and suggests an innovative means of obtaining a partial financial offset for this; and
 - f. forecasts further RSL submissions about other less than satisfactory aspects of military superannuation schemes.
- 2.2 This submission arises from the legitimate concern of RSL members that the decision of Government to continue using the measure of inflation, the Consumer Price Index, when indexing military superannuation payments, is unfair and fails to recognise the difference between civilian and military service. It shows by way of a comparison of indexation figures for the Consumer Price Index and the Male Total Average Weekly Earnings Index for the half decade 2002-2007 the extent to which military superannuants are disadvantaged.
- 2.3 The submission identifies the inconsistency that the indexation of military superannuation is virtually the only issue related to service in Australia's armed forces aligned to civilian standards. It shows that since Federation, Members of the House of Representatives and Senators have legislated for almost all aspects of service in the nation's armed forces, including superannuation schemes, because of the separateness of the requirements of military service. Of equal importance, the submission reminds readers that former members of the armed forces remain

members of the "Defence Family" after completion of full time service, with many continuing on as members of the Defence Reserve.

- 2.4 In addition, the submission shows that Parliamentary inquiries have supported indexation matching cost of living increases whereas Government inquiries have backed the continued use of indexation geared to inflation, and demonstrates the impropriety of using the civilian wage setting determinant "productivity" in making judgements about the activities of those serving in the armed forces.

3. Genesis of the Submission

- 3.1 Indexation of payments to beneficiaries of Australia's three military superannuation schemes is provided for in relevant legislation¹. This reflects the intention of the Parliament of the Commonwealth of Australia spanning more than six decades that military superannuation pension entitlements for those who have served in the Australian Defence Force should not erode in purchasing power over time.
- 3.2 The reality is that the intention of successive Parliaments has not been met and that there has been a diminution of the purchasing power of pensions paid from the military superannuation schemes.
- 3.3 This has happened because the measure used to adjust pension payments for military superannuants, the Consumer Price Index, is not designed to compensate for the increased cost of living experienced by former service personnel. This reduction in purchasing power of military superannuation payments can be demonstrated in a variety of ways, one of which is a comparison of the annual percentage changes to the Consumer Price Index² with the annual percentage change to Male Total Average Weekly Earnings³ during the half decade 2002-7.
- 3.4 The weighted average annual percentage change of Consumer Price Index in eight Capital Cities was:

2002-3	3.1
2003-4	2.4
2004-5	2.4
2005-6	3.2
2006-7	2.9

During the same period the Australian annual percentage change to Male Total Average Weekly Earnings was:

2002-3	4.7
2003-4	4.4
2004-5	3.7
2005-6	5.4
2006-7	4.8

- 3.5 Agitation by military superannuants and others prior to the 2007 Federal election based on this and other data was sufficient to generate a decision by the incoming Commonwealth Government to commission a review of pension indexation. This was completed in December 2008 but was not made public until August 2009. At that time the Commonwealth Government accepted all recommendations in the review report including that the Consumer Price Index be retained as the measure on which to base adjustments to military superannuation pensions.
- 3.6 This decision dashed the legitimate claim of thousands of military superannuants for "a fair deal", caused consternation amongst the membership of the RSL, and generated this submission.

4. Scope

- 4.1 This submission:
- provides evidence that the Consumer Price Index is a measure of inflation and is not designed to measure cost of living increases;
 - questions the Government's rationale for considering the indexation of military superannuation in combination with most other Commonwealth superannuation schemes;

¹ *Defence Forces Retirement Benefits Act 1948, Sections 83-4 Part VID, p.102-108; Defence Force Retirement and Death Benefits Act 1973, Section 98A-G, Part XA, p.140-151; Military Superannuation and Benefits Act 1991, Form of Trust Deed Schedule, Military Superannuation and Benefits Rules, Table of Provisions, Part 6, Division 2, para.56, p.74.*

² *Consumer Price Index*, Australian Bureau of Statistics, 6401.0 (www.aph.gov.au/library/Pubs/RP/2007-08/08rp1402-6.jpg)

³ *Average Weekly Earnings*, Australian Bureau of Statistics 6302.0 (www.aph.gov.au/library/Pubs/RP/2007-08/08rp1402-3.jpg)

- c. demonstrates the intent of the Parliament that military superannuation is separate in all respects from superannuation schemes for Commonwealth employees and that Boards of governance for military superannuation schemes are to include military representatives;
- d. examines earlier inquiries into military superannuation including the indexation of superannuation payments;
- e. shows a divergence between the intent of the Parliament and the actions of Governments over the indexation of military superannuation;
- f. acknowledges there will be an unquantified cost of applying a more equitable form of indexation to military superannuation payments and suggests offsets to ameliorate this;
- g. outlines other unsatisfactory aspects of military superannuation schemes to be raised in subsequent submissions; and
- h. provides evidence in an attachment that military superannuation pensions adjusted by the Consumer Price Index are not keeping up with cost of living increases.

5. The Consumer Price Index

- 5.1 Increases in the amounts paid to Defence Force Retirement Benefits scheme superannuation recipients were irregular until the mid 1970s. In 1976, after three reviews about superannuation⁴ and the introduction of the Defence Force Retirement and Death Benefits Scheme, the Commonwealth Government accepted that military superannuation would be updated annually with the percentage update being determined by the Consumer Price Index. This means of updating has continued with the only change being that, since the early 2000's, these adjustments have been made every six months.
- 5.2 Although there has been a consensus that updates of military superannuation entitlements are necessary, this has not been the case for the means by which these adjustments should be made, or about the extent to which they should adjust for increases in cost of living. There is thus a need to examine what this Index is – and what it is not.
- 5.3 The Consumer Price Index is “not a measure of the cost of living. Rather it is a measure of inflation and, as such, it cannot keep up with costs relative to general community standards of living.”⁵ This definition recorded by a Senate Select Committee in 2001 accords with advice it received from the Australian Bureau of Statistics and appears to have general acceptance.
- 5.4 It is also important to note the Senate Committee’s observation that “the ‘basket of goods’ used by the Australian Bureau of Statistics to measure the cost of living does not appear to reflect the actual expenditure patterns of the retired.”⁶
- 5.5 When this is added to the earlier recorded rejection of the Jess Committee of the Consumer Price Index “because it considers the Index does not fairly represent changes in general community standards,” it is clear there are substantial differences of opinion as to whether the Consumer Price Index is or is not a fair means of updating military superannuation entitlements.
- 5.6 In this context it is worth quoting the Australian Bureau of Statistics definition:
 “The CPI is a current social and economic indicator that is constructed to measure changes over time in the general level of prices of consumer goods and services that households acquire, use or pay for consumption. The index aims to measure the change in consumer prices over time. This may be done by measuring the cost of purchasing a fixed basket of consumer goods and services of constant quality and similar characteristics, with the products in the basket being selected to be representative of households’ expenditure during a year or other specified period.”⁷

⁴ Joint Select Committee 1972 review of Defence Force Retirement Benefits Legislation; 1973 Enquiry into Superannuation Pension Updating; 1974 review of pension updating by Professor A.H. Pollard and Mr. G. L. Melville.

⁵ A ‘Reasonable and Secure’ Retirement? – The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes, April 2001 Report of Senate Select Committee on Superannuation and Financial Services, para. 3.94, p.43.

⁶ Ibid.

⁷ Australian Bureau of Statistics 6461.0, 17th December 2009, Chapter 2, para. 2.2.

5.7 In the same document, the Bureau of Statistics noted that "as it presently stands, the Australian CPI is specifically designed to provide a general measure of price inflation for households residing in the capital cities" and that in Australia "the use of the CPI in wage determination has diminished with the trend towards centralised, enterprise-based wage and salary setting arrangements with outcomes focused on the commercial circumstances of each business."⁸

5.8 The foregoing serves to demonstrate the sharply differing opinions about the equity of using the Consumer Price Index for updating military superannuation payments. On the basis of the available evidence, the RSL contends that the Consumer Price Index is solely a measure of inflation and is not an accurate measure of cost of living increases.

6. The Separateness of Military Superannuation

6.1 An examination of legislation for the Australian Defence Force shows that in almost all respects, the Parliament has been consistent since Federation in regarding the nation's armed forces as a separate and quite distinctly different part of Australian society. The *Defence Act 1903*, *Naval Defence Act 1910* and *Air Force Act 1923* provide the heads of power for the Chiefs of the Army, Navy and Air Force and set out the governance of the nation's armed forces including the notion of military command and the requirement to obey lawful orders. Of particular note in this context is that the Australian Department of Defence established under this legislation is the only Commonwealth Department with a diarchy. The Chief of the Defence Force commands the Australian Defence Force while the Secretary of the Department of Defence has the same responsibilities for administration and management of the department's civilian employees as his or her peers heading other Commonwealth Departments. The differentiation between service personnel and civilians cannot be more starkly demonstrated.

6.2 Other legislation is consistent in maintaining this difference for the Defence Force. The *Defence Force Discipline Act 1982* established a legal system for members of the armed forces to meet military requirements. The Defence Force Remuneration Tribunal was established in 1982 under the heads of power in the *Defence Act 1903* to be the determining authority for pay and allowances for members of the Army, Navy and Air Force. And when the Australian Honours System was established in 1975, there was provision for a Military List quite separate from the General List. In addition, each of the armed forces includes its own health branch with its own doctors, dentists and supporting staff, and the services have created their own private health insurance schemes such as Navy Health and Defence Health.

6.3 Since the Second World War the same principle of separateness has applied to legislation for superannuation for members of the nation's fighting forces. The *Defence Force Retirements Benefits Act 1948*, the *Defence Force Retirements and Death Benefits Act 1973* and the *Military Superannuation and Benefits Act 1991* all recognise that civilian superannuation schemes for Commonwealth employees are unsuited for members of the Australian Defence Force.

6.4 Given these facts, it is difficult to understand why successive Governments have sought to align the indexation of military superannuation payments with the indexation of superannuation payments to former Commonwealth employees. Former members of the Australian Defence Force remain part of the "Defence Family" with many continuing to serve in the Reserve long after they have completed full time service. Their circumstances are quite different from those of former public servants and they have a right to have the indexation of their superannuation payments adjusted for increases in cost of living without reference to the indexation regimes of others. The continued existence of the Department of Veterans' Affairs and legislation such as the *Veterans' Entitlements Act 1986* and the *Military Rehabilitation and Compensation Act 2004* attest to this.

6.5 The foregoing shows that the nexus between military superannuation schemes and other Commonwealth superannuation schemes for indexation of payments is a policy aberration and is inconsistent with the legislative base of the schemes. The RSL recommends it be abandoned.

⁸ Ibid.

7. The Parliamentary Perspective of Military Superannuation

- 7.1 On three occasions spanning 43 years the Parliament of the Commonwealth of Australia has enacted superannuation legislation framed specifically for members of Australia's armed forces.⁹ In so doing, the Parliament has established and maintained a principle that those who serve in Australia's Air Force, Army and Navy have a need for superannuation arrangements and entitlements separate in all respects from superannuation arrangements and entitlements from all others paid by the Australian Government.
- 7.2 Nothing in the legislation appears to preclude this principle of separateness from applying to all aspects of the military superannuation schemes, including in particular, the indexation of superannuation pension payments.
- 7.3 Act number 31 of 1948, the *Defence Forces Retirements Benefits Act 1948* assented to on 26th June 1948, is explained in the legislation as an "Act to provide Retirement Benefits for Members of the Defence Force of the Commonwealth, and for other purposes." The intent of the Parliament is affirmed by the inclusion in the legislation of the interpretation that "in this Act, unless contrary intention appears...member means a member of the Defence Force on full time service..."¹⁰ Though there are sections of the Act covering such circumstances as preservation of rights for members who might stand for election to Federal Parliament, there is nothing in the legislation to suggest any linkage to other Australians who, unlike service personnel, are employees of the Commonwealth or to their own superannuation entitlements.
- 7.4 The intent of the Parliament for a separate military superannuation scheme was described by the Minister for Defence, Navy, Army, Air Force and Supply, the Hon Lance Barnard MP, in a speech in the House of Representatives on 25th May 1973. "The Defence Force Retirement Benefits Act came into force in 1949 following the Government's consideration of a report of a Committee chaired by the then Minister for Defence and Post-War Reconstruction, the Hon J.J. Dedman MP. The scheme created by that legislation was designed to meet the special conditions of service in the armed forces..." A part of this Act also recognised the need for a Board to oversee the superannuation scheme and for this Board to include military representatives.
- 7.5 An examination of legislation passed by the Commonwealth Parliament in 1973 shows a similar intent. The *Defence Force Retirement and Death Benefits Act* assented to on 19th June 1973 has as its full title "an Act to make provision for and in relation to a Scheme for Retirement and Death Benefits for Members of the Defence Force." Nothing in the Act suggests it applies to citizens employed by the Commonwealth in various occupations who are not members of the Defence Force. Once again the Parliament included in the legislation provision for a Board of Governance with military members.
- 7.6 The same applies to the *Military Superannuation and Benefits Act 1991* assented to on 7th September 1991. Of particular note in this legislation is the establishment of "a board called the Military Superannuation and Benefits Board of Trustees No 1."¹¹ This demonstrates the continued intention of the Parliament that this superannuation scheme was to have a Board of Trustees defined as Military and to be quite separate from those for other Commonwealth superannuation schemes.
- 7.7 By these actions the Parliament has made clear that superannuation for members of the nation's armed forces cannot be provided by superannuation schemes enacted for Commonwealth public servants, police, fire fighters or others paid by the Commonwealth Government regardless of whether some of these civilian occupations entail exposure to danger as part of their employment. Parliament also made clear that it required military representation on Boards governing these superannuation schemes.

⁹ The Defence Force Retirement Benefits scheme established under the *Defence Force Retirement Benefits Act 1948*; the Defence Force Retirement and Death Benefits scheme established under the *Defence Force Retirement and Death Benefits Act 1973*; and the Military Superannuation Benefits scheme established under the *Military Superannuation and Benefits Act 1991*.

¹⁰ *Defence Force Retirements Benefits Act 1948*, Part 1, Section 4(1), p. 1-2.

¹¹ *Military Superannuation and Benefits Act 1991*, Part 6 Section 18, p.11.

8. A Divergence between Parliament and Government over Indexation

- 8.1 Governments have disregarded the intention of Parliament that indexation of military superannuation be based on cost of living increases when authorising reviews about this aspect of retirement benefits. On 5th March 1974 the Treasurer, the Hon Frank Crean MP, announced that in view of the complexity of indexation, the Government had decided to seek the benefit of outside actuarial advice on his proposals for a new superannuation scheme for Australian Government employees. The subsequent report on the Treasurer's proposals was compiled by Mr G.L. Melville and Professor A.H. Pollard and commented specifically on the post-retirement indexing of all Commonwealth funded superannuation pensions. This reference to an independent expert followed the precedent set by the McMahon government when it commissioned Professor Pollard to review the methods for indexing all Commonwealth superannuation pensions, including military pensions.¹²
- 8.2 In 2008, Senator the Hon Nick Sherry, Minister for Superannuation and Corporate Law, invited Mr T.J. Matthews to review "the indexation of pensions from the following Australian Government superannuation schemes:
- a. The Commonwealth Superannuation Scheme ;
 - b. The Public Sector Superannuation Scheme;
 - c. The Defence Force Retirement and Death Benefits Scheme;
 - d. The Defence Force Retirement Benefits Scheme;
 - e. The Military Superannuation and Benefits Scheme;
 - f. The scheme under the *Superannuation Act 1922*; and
 - g. The scheme under the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations"¹³
- 8.3 In tendering this invitation the Minister did not differentiate between the superannuation schemes and thus overlooked the intention of Parliament that military superannuation schemes are separate from all other Commonwealth superannuation schemes.
- 8.4 The RSL asserts that the principle of Parliament is paramount and the omission of this principle from the terms of reference provided to Mr Matthews makes the findings of his review questionable and his recommendations unsafe.
- 8.5 In making this judgement the RSL has taken account of legislation suggesting a contrary view. Section 5 of the *Financial Management and Accountability Act 1997* established ComSuper as a prescribed agency to administer the "Australian Government sponsored superannuation schemes which apply to Australian Government civilian and Defence Force members."¹⁴ This legislation concerns solely the administration of superannuation, identifies Defence Force members as a separate group and in no way diminishes the intention of the Parliament that superannuation for members and former members of the Australian Defence Force must be quite separate from all other Commonwealth funded superannuation schemes.
- 8.6 The RSL notes with concern that this trend continues. In October 2008 the Commonwealth Government announced "that it intends to merge the boards of the MilitarySuper and the DFRDB (Defence Force Retirement and Death Benefits) Authority with the ARIA (Australian Reward Investment Alliance) board (the trustee of the CSS, PSS and PSSap civilian schemes)"and that it intends "that the boards will merge from 1 July 2010."¹⁵ The RSL is yet to be persuaded that this change is in the best interests of military superannuants.
- 8.7 More evidence of the belief by Government that it is empowered to act without Parliamentary authority is in the announcement by Minister Tanner, on behalf of the Commonwealth

¹² Nielson, L. *Military superannuation – myths and reality*, Parliament of Australia, Parliamentary Library Research Paper No. 16 2007-08, p.5.

¹³ Matthews, T.J., *Review of Pension Indexation Arrangements in the Australian Civilian and Military Superannuation Schemes*, Department of Finance and Deregulation, 24 Dec.2008, Appendix A, p.48.

¹⁴ Commissioner for Superannuation 2008-09 Annual Report, p.7.

¹⁵ MSB Board Annual Report 2008-09, p.11.

Government, accepting the recommendations of the Matthews review into indexation of Commonwealth funded superannuation payments. Minister Tanner circumvented Parliamentary principle by failing to discriminate in his statement between military superannuants and civilian superannuants. The cost to the taxpayer of a more equitable indexation measure for military superannuants is small in comparison to that for all Commonwealth funded superannuants – and this should have been acknowledged.

9. Inquiries into Military Superannuation

- 9.1 During the last half century there have been several inquiries into military superannuation. Those directed by Government have tended to combine military superannuation with superannuation for employees of the Commonwealth¹⁶. Those undertaken by the Parliament have tended to focus on military superannuation. The inquiries considered in this submission are:

- a. the Government directed 1957 review by Sir John Allison;
- b. the Joint Parliamentary Select Committee review of 1972;
- c. the Senate Select Committee review of 2001;
- d. the Government directed review of 2007 by a team headed by Mr Andrew Podger; and
- e. the Government directed review of 2008 by Mr Trevor Matthews.

9.2 The 1957 Allison Review.

The operation of the 1948 Defence Force Retirement Benefits Scheme for the decade following its introduction highlighted sufficient shortcomings in the legislation to warrant action being taken to improve the scheme. As a consequence Sir John Allison was appointed in 1957 to review the Defence Force superannuation scheme. The outcome was a series of new arrangements for contributors, known as the post 1959 scheme. Unfortunately "the measures adopted in attempts to alleviate the severe problems faced by pre-1959 entrants in maintaining high levels of contributions... resulted in a multiplicity of contributions and benefits arrangements ... so complex as to be almost incomprehensible to the great majority of members..."¹⁷

- 9.3 It is noteworthy in the context of this submission that in the late 1950's both the Government and the Parliament held that the superannuation needs of members and former members of the Defence Force were different from those of the Commonwealth Public Service.

9.4 The 1972 Joint Select Committee Review of Military Superannuation.

Complaints about the Defence Force Retirement Benefits scheme persisted and by 1970 had become so numerous that Mr John Jess MP and other Members of Parliament persuaded Prime Minister J.G. Gorton to agree to the establishment of a Joint Select Committee to review military superannuation. This all party Committee of the Parliament undertook a thorough review of all aspects of the Defence Force Retirements Benefits Scheme and published a detailed report of its findings and recommendations on 18th May 1972.

- 9.5 The Joint Select Committee Report included comment on the methods used to update what the Committee referred to as pensions or *retired pay*.¹⁸

"116. The Government has increased Defence Force Retirement Benefits pensions on a number of occasions since the introduction of the scheme in 1948. Two different methods of adjustment have been adopted.

117. The first method was based on changes in the value of the pension unit. In 1950 when the value of the first 8 units was increased for existing contributors, existing DFRB pensions were adjusted by increasing the value of the first 8 units of pension being received. The same method

¹⁶ Members of the Australian Defence Force are not employees of the Commonwealth. They have no employment contract; they serve the Australian people; they are bound by law to obey orders even if this entails risking their lives; and they cannot withdraw their services at a time and place of their choosing.

¹⁷ Barnard, Hon. L., House of Representatives Hansard, 25th May 1973, p.2707.

¹⁸ This terminology was used because of objections by former service personnel about use of the term *pension*.

of adjustment was adopted in 1951 when the value of units in excess of 8 was increased but the pension increases were restricted to those who retired after the age of sixty years and those with an incapacity for civilian employment of 60 percent or more i.e. those in receipt of the maximum pension benefit. In 1954 when all units for existing contributors were increased in value by one sixth, existing pensions were also increased by the method adopted so as to increase the value of the pension by one sixth and not the value of entitlement.

118. The second method adopted, the notional salary method, has been applied in granting pension increases in 1961, 1963, 1967 and 1971. In brief, increases by this method have been calculated by reference to the number of units or categories that, having regard to his rank or classification at retirement, would have been the entitlement of the pensioner had he, in fact, retired at a later date – December 1954 for the 1961 increase, July 1961 for the 1963 increase, 30 June 1967 for the 1967 increase and June 1971 for the 1971 increase...¹⁹

- 9.6 In a subsequent section of its report the Joint Select Committee concluded that "the most appropriate method of maintaining the real value of *retired pay* is to ensure that it maintains relativity with average weekly earnings..."²⁰
- 9.7 The Committee went on to discuss other methods of updating *retired pay* but in paragraph 124 of their report concluded that "the adjustment should be related to average weekly earnings... This will ensure that the man in retirement will be able to maintain his position in relation to rising community standards and that he will obtain these increases when they are needed. To some extent this is a compromise between the proportion of salary method of adjustment discussed in paragraphs 118-119 and the proposal that adjustment be related to the Consumer Price Index. The Committee rejects the latter suggestion because it considers that the Index does not fairly represent changes in general community standards. The following table *Figure X* ... illustrates the point.

Figure X

	<u>Year</u>	<u>Consumer Price Index</u>	<u>Average Weekly Earnings Index</u>
(A) The Indexes	1969-70	109.4	229.5
	1964-65	94.0	167.3
	1959-60	85.7	134.3
	1954-55	74.0	105.1
(B) Equivalent Annual Increases to 1967-70		Percent	Percent
	1964-65	3.12	6.53
	1959-60	2.47	5.50
	1954-55	2.64	5.34 ²¹

- 9.8 Two aspects of the conclusions of this committee of parliamentarians from both sides of politics are relevant to the thrust of this submission.
- 9.9 The first is that it arose as the consequence of a Parliamentary review recognising the separateness of military superannuation matters from all other Commonwealth superannuation schemes.
- 9.10 The second is that it directly linked the indexation of military superannuation pensions to average weekly earnings, and hence the standard of living of recipients of these pensions.
- 9.11 Senate Select Committee inquiry into a "reasonable and secure retirement".

Concern about the erosion of retirement benefits for former members of the armed forces and public servants during the 1990's was sufficient to convince the Senate to refer the issue to the

¹⁹ Joint Select Committee on Defence Forces Retirements Legislation Report, 18th May 1972, Parliamentary Paper No 74, pp.32-34.

²⁰ Ibid.

²¹ Ibid.

Senate Select Committee on Superannuation and Financial Services for investigation on 8th November 2000.

- 9.12 The terms of reference required the Committee to inquire into and report on:
 "The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes, with particular reference to:
- a the method of indexation used by trustees to preserve the real value of fund members' preserved unfunded component of their employer benefit;
 - b the rationale for using this method;
 - c the costs and benefits to fund members and trustees of using this method over other alternatives;
 - d indexation methods used by unfunded and funded state government superannuation schemes where the members' preserved employer benefit remains in the fund;
 - e the possible implications of adopting another method of indexation; and
 - f any other issues related to the scope of the inquiry.²²
- 9.13 Though the inquiry "initially set out to examine the indexation arrangements for the preserved unfunded component of the employer benefit, the main issue which emerged...was the erosion of the superannuation pension through the use of the present indexation method."²³
- 9.14 The Committee received substantial evidence that the value of military superannuation payments had fallen behind the cost of living because the Consumer Price Index had been used to update these payments. A comparison of the value of the Consumer Price Index and the Average Weekly Ordinary Times Earnings, then used as a measure to index aged pensions accepted by the Committee showed:

<u>Date</u>	<u>Consumer Price Index</u>	<u>Average Weekly Ordinary Times Earnings</u>
March 1996	3.8	4.2
June 1996	3.1	3.9
September 1996	2.1	3.8
December 1996	1.5	3.9
March 1997	1.3	4.7
June 1997	0.3	3.7
September 1997	-0.2	4.3
December 1997	-0.1	3.8
March 1998	-0.1	4.1
June 1998	0.8	4.3
September 1998	1.2	4.1
December 1998	1.7	4.2
March 1999	1.2	3.0
June 1999	1.1	3.2
September 1999	1.8	2.1
December 1999	1.9	3.0
March 2000	2.8	4.1
June 2000	3.2	4.3
September 2000	6.1	6.1 ²⁴

- 9.15 Of particular importance to the Committee was the evidence of representatives of the Australian Bureau of Statistics about the use and purposes of the Consumer Price Index. They "emphasised that the adequacy of the index depends on the particular purpose intended. They judged that the index was perfectly adequate to gauge the rise in costs of particular items in the basket of goods over a period of assessment. However 'to the extent that that fixed basket of goods and services becomes less and less representative of an overall living standard, then the CPI will not pick it.'

²² A 'Reasonable and Secure' Retirement? – The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes, April 2001 Report of Senate Select Committee on Superannuation and Financial Services, Chapter 1, para. 1.3.

²³ Ibid, Chapter 1, para.1.12.

²⁴ Ibid, Chapter 3, para.3.16, Table 4.

This is because: 'The CPI is not a measure of the cost of living. It is a measure of inflation and there are differences between the two things.'²⁵

- 9.16 The Committee was told by representatives of the Australian Bureau of Statistics that "if the purpose of indexation of military superannuation payments "was to maintain a relative standard of living with other groups in the community then 'an earnings measure of some sort' would be a more appropriate vehicle for indexation..." and that "in weighting the CPI" the Australian Bureau of Statistics " had to make an 'on balance' decision about its primary purpose, which, in the end is a policy issue."²⁶
- 9.17 The plight of the lowest income groups was demonstrated to the Senate Select Committee with the situation of defence force widows being singled out as the most disadvantaged by having the reduced residual amounts of their deceased defence force spouses' superannuation payments being indexed by the Consumer Price Index.
- 9.18 Taking account of all the evidence tendered the Committee recommended "that Government examine the feasibility of adopting an indexation method other than the CPI for Commonwealth public sector and defence force superannuation schemes, to more adequately reflect the actual increases in cost of living."²⁷
- 9.19 The Government rejected this recommendation of the Senate Select Committee.
- 9.20 The 2007 Review of Military Superannuation.

By the beginning of 2007, recruiting of personnel for key specialisations throughout the Australian Defence Force had become such a problem that the Minister for Defence arranged a Defence Recruiting Seminar. This was held at Sydney on 16th February 2007, was presided over by Minister Nelson and was attended by a senior representative of the National President of the Returned and Services League at the specific invitation of the Minister. One of the points raised during this event was the potentially deleterious impact on the thinking of those the Australian Defence Force wished to recruit of the Government's miserly treatment of former service personnel receiving military superannuation pensions.

- 9.21 It was unsurprising therefore when on 27th February 2007 the Minister Assisting the Minister for Defence announced a review of military superannuation. In so doing he specified two principles to guide the review team. These were the unique nature of military service, and the need to compensate members of the Australian Defence Force for that uniqueness in their superannuation, invalidity and death benefits, as with other conditions of service, thereby ensuring that joining and staying in the Australian Defence Force remained attractive propositions.
- 9.22 The Terms of Reference for the review team of Mr Andrew Podger, Dr David Knox and Air Commodore Lee Roberts were extensive. Amongst other things they required the team to:
- "review the current military superannuation arrangements and the suitability of those arrangements in the light of" 12 separate details including the "current and future costs associated with providing, managing and administering military superannuation arrangements"²⁸
 - "having regard to the above, analyse the following" 12 "specific issues which have been highlighted by emerging and extant Government policy and member feedback"²⁹ one of which was indexation of military superannuation pensions.

²⁵ Ibid, Chapter 3, para. 3.28.

²⁶ Ibid, Chapter 3, paras.3.28 and 3.29.

²⁷ Ibid. Chapter 3, para.3.100.

²⁸ Report of the Review into Military Superannuation, 13 July 2007, p.iv.

²⁹ Ibid. p.v.

- "consult widely within Government and the financial services industry as well as the Defence Force Retirement and Death Benefits Authority, the Military Superannuation and Benefits Board, representative Ex Service Organisations, advocacy groups and members of the ADF"³⁰
 - "make recommendations about the future for military superannuation in light of all the considerations above, including potential alternative arrangements that" with 8 other instructions, "are consistent with broad Government superannuation and budgetary policy."³¹
- 9.23 The review team was also instructed to present their recommendations within 6 months, and to accept that a reference committee " comprised of, but not limited to, representatives of Defence, the Treasury, the Department of Prime Minister and Cabinet and the Department of Finance and Administration will provide...guidance as needed."³²
- 9.24 In their report of 31 July 2007, the review team made two recommendations with respect to the indexation of military superannuation pensions.
- These were:
- "Recommendation 14. If the Government is willing to go beyond the envelope of current costs it should consider indexing DFRDB/DFRB pensions for those over 55 on a similar basis to that applying to age pensions. Because of the costs involved, this option does not warrant the priority attached to the other recommendations. An alternative option the Government could consider is to limit this change to pensions paid from age 65.
 - Recommendation 15. There should be no change to the MSBS pension indexation arrangements."³³
- 9.25 It is to the credit of the review team that they went so far as to make these modest recommendations about improvement to the indexation of military superannuation pensions. They were severely constrained by their Terms of Reference, directed to be consistent with broad Government superannuation and budgetary policy, and had their work overseen by a powerful departmental committee to ensure they did not stray from these guidelines.
- 9.26 Insofar as the indexation issue was concerned, it is reasonable to describe the outcome of this review as persiflage. This is borne out by the fact that the Government took no action on recommendations 14 and 15.
- 9.27 The 2008 Review of Commonwealth Pension Indexation.
- As earlier noted, on 26th June 2008 the Minister for Superannuation and Corporate Law, Senator the Hon Nick Sherry announced the implementation of the 2007 Australian Labor Party election commitment to review the indexation arrangements for Australian government superannuation pensions.
- 9.28 As noted earlier, the review was undertaken by Mr Trevor Matthews. He presented his report to Senator Sherry on 24th December 2008.
- 9.29 On 21st August 2009 the Minister for Finance and Deregulation, the Hon Lindsay Tanner MP, announced that the Commonwealth Government supported the findings and recommendations of a *Review of Pension Indexation Arrangements for Australian Government Civilian and Military Superannuation Schemes* by Mr Trevor J. Matthews dated 24th December 2008. The main recommendation of this review was that indexation of military superannuation payments should continue to be based on the Consumer Price Index.
- 9.30 In his press release announcing the Government's decision, Mr Tanner stated that the Consumer Price Index "is the most suitable index to protect Australian superannuation pensions against inflationary price increases at this time." He also stated that "a change to the indexation of these

³⁰ Ibid.

³¹ Ibid.

³² Ibid, p.vi.

³³ Ibid, p.xvi.

pensions therefore is not warranted, especially as it would come at a significant cost to taxpayers. It would also be inequitable for superannuants who previously chose to take their superannuation in a lump sum."

9.31 This indicates Government policy is:

- to reject any change to the indexation of military superannuation pensions on the grounds of cost;
- not to differentiate between military and civilian superannuation arrangements in terms of cost of these schemes to the taxpayer;
- to disregard evidence that the Consumer Price Index does not match increases in cost of living; and
- to accept questionable judgements about military superannuation entitlements taken as a lump sum.

9.32 Mr Matthews records that in Professor Pollard's 1973 review of the broader purposes of superannuation, it was stated that "superannuation schemes had been introduced "in part to enable officers of long service to maintain a reasonable standard of comfort after retirement" and "to free them from a fear that a long retirement might bring severe financial problems in its latter years."³⁴ He further notes that "in the 1974 Melville Pollard report...that "where a pension is the benefit, that benefit should not be eroded by inflation, but should be adjusted to compensate for the increased cost of living."³⁵

9.33 Mr Matthews does not challenge these principles directly. Instead he elected to obfuscate by introducing the issue of productivity. He stated in his report that "there was, and there is now, a suggestion that retired people generally, and retired Commonwealth public servants in particular, should not merely be protected from erosion of the purchasing power of their pensions but should share in productivity gains."³⁶ Thereafter he asserts that "The changes to indexation proposed by each of the Senate committees would effectively provide retirees with a share of productivity increases, extending the current purpose of indexation."³⁷

9.34 Insofar as military superannuants are concerned this is disingenuous. Mr Matthews does not refute that there is merit in superannuation schemes being adjusted to compensate for the increased cost of living but then implies that using any measure other than the Consumer Price Index to adjust superannuation payments will extend the purpose of indexation because it will introduce what he implies is a share of productivity increases.

9.35 The RSL contends that:

- a. the civilian industrial relations measure known as "productivity" has no relevance to the service rendered by members of the Australian Defence Force;
- b. the reviewer appears to have accepted the fictitious "common employer principle" to the extent that he did not separately examine indexation of military superannuation schemes and other commonwealth superannuation schemes, and that in at least one instance he rejected a submission about military schemes on the basis that it was at odds with what applied to a non-military scheme;³⁸
- c. there was a less than objective examination of the impact of a more generous form of indexation on those who elect to take superannuation entitlements as a lump sum; and

³⁴ Note 13, Chapter 3, para.3.3, p.13.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid, p.14.

³⁸ Ibid, p. 37. "Several submissions raised concerns about specific features of the DFRDB and DFRB. One feature of particular concern...is the non-indexation of that part of a DFRB or DFRDB pension that could have been commuted to a lump sum on retirement...I note that this feature is consistent with the CSS (Commonwealth Superannuation Scheme), a contemporaneous scheme, which does not provide for indexation of that component of the benefit that is available to be taken as a lump sum."

- d. there was an unexplained rejection by the reviewer of evidence that the indexation of military superannuation payments by application of the Consumer Price Index is inequitable because it fails to match increases in the cost of living.
- 9.36 The word "productivity" cannot be used as a measure of worth for individuals or groups within the Australian Defence Force because:
- a. the word has no relevance to the commitment of members of the Australian Defence Force to be prepared to sacrifice their lives in defence of the nation;
 - b. there is no "product" delivered by the Australian Defence Force; and
 - c. it is not possible to measure defence "productivity."
- 9.37 The only Australians who make a commitment to place their lives at risk and accept that they may be killed or wounded in action against Australia's enemies are members of the Australian Defence Force. Other Australians such as members of police forces and fire fighters make a valuable but lesser commitment to the security of the nation in that they accept their employment may involve danger but know they cannot be ordered into combat. This fundamental difference between those who serve in the Australian Defence Force and other citizens is widely recognised and understood.
- "No-one can question that serving in the Australian Defence Force is a unique and very important occupation making a significant and lasting contribution to overall national security and welfare defined in the broadest sense. And no-one should make light of the stress and dangers in this occupation. Indeed, service personnel are subject to considerable danger, injury and death whether or not they are serving in an area of combat operations."³⁹
- 9.38 "Productivity" has no meaning in this context. Nor does it have any meaning when judged against some of the tasks undertaken by members of the Australian Defence Force regardless of whether they are engaged in combat.
- 9.39 For example, it is impossible to measure the "productivity" of the pilot of a fighter aircraft engaged on a strike mission. His or her success or failure depends upon personal professionalism, ability, level of training and character traits in times of high stress. It may depend upon taking life threatening risks in split second judgements, and it will depend upon a huge supporting infrastructure involving many in the Australian Defence Force team. The mission may fail if the intelligence input is incorrect, if the aircraft is not fuelled and armed correctly, if air force meteorologists provide erroneous data, or if the aircraft maintainers or logistic suppliers do not perform to the required standard. Despite all this, success or failure will ultimately depend upon the courage, resourcefulness and willingness of the pilot to risk his or her life to press home the mission.
- 9.40 In similar vein, it is unrealistic to make judgements about the "productivity" of a single infantryman engaged in close combat with an enemy. Success or failure in these circumstances will depend upon intangible human qualities such as courage, physical and psychological stamina, endurance and tenacity of purpose, and on the backup provided by the Australian Defence Force team with vital elements such as friendly fire support from land, sea and air forces.
- 9.41 In making this distinction, the RSL is mindful that "productivity" has been used as a tool in making judgements about relative rates of pay and allowances for members of the Australian Defence Force since the abandonment of pay based on rank. The League contends that its use in this context is entirely different from the meaning implied by the comments put forward by Mr Matthews about the indexation of superannuation. He used the phrase "a share of productivity increases" to imply a higher value for work undertaken. The RSL contends that that this is irrelevant as applied to the Australian Defence Force or to its members. To imply otherwise is, for instance, to suggest that the nation's warriors of today will have greater courage in pressing home an attack against the enemy than the nation's warriors of yesteryear, or that they will be more willing to risk their lives than did their predecessors.
- 9.42 The notion that the Australian Defence Force product is a form of national insurance is false. It is not possible to insure the safety of the nation. If the Australian Defence Force is rendered

³⁹ Note 12, p.12.

ineffective, a consequence might be that Australia loses its status as an independent sovereign state. It follows that there can be no measure of "productivity" for the Australian Defence Force or for any member of the nation's armed forces.

- 9.43 Airmen, sailors and soldiers serve the Australian people and nation as directed by the democratically elected Commonwealth Parliament. They are not employees of the nation. They do not have an employer/employee contract in the traditional civilian context because each must make the ultimate commitment, that of offering up their lives in defence of the nation.
- 9.44 The usual measures of "productivity" used in the Australian civilian workforce such as the quality and quantity of goods produced, the time taken to produce items, or the efficiency and effectiveness of services provided has no relevance to what individual service personnel or the defence force as a whole must achieve.
- 9.45 Measuring what an Australian clearance diver does in rendering safe unexploded ordnance when under water is impossible. Training, experience, expertise, infinite patience, courage, tenacity of purpose, physical and psychological strength and other unmeasurable human qualities are involved. More to the point there can never be certainty that the so-called "product", rendering an explosive safe, will be achieved because there is always the possibility that the clearance diver may be killed or wounded while undertaking the task.
- 9.46 Just as important is the context in which these circumstances can arise. Defence Force personnel may be ordered to undertake such tasks when under attack by an enemy or in times of peace. Regardless of the time or the circumstances, they put their lives on the line for the nation they serve. This is but one of innumerable examples of the impossibility of measuring defence force "productivity".
- 9.47 By implication and in the way in which he undertook his review of the indexation of superannuation schemes, Mr Matthews appears to accept that service in the Australian Defence Force equates for superannuation purposes to Commonwealth employment categories with the exceptions of Parliamentarians and Judicial Officers.⁴⁰
- 9.48 For reasons he did not question or explain, Mr Matthews accepted that Parliamentarians and Judicial Officers are separate persons for superannuation purposes, presumably because their entitlements are covered by separate Acts of the Commonwealth Parliament. This calls into question his decision not to apply the same standard of separation to those with superannuation entitlements under the three military superannuation Acts. This lack of differentiation undermines the objectivity, substance and findings of the review.
- 9.49 The reality is that members of the Australian Defence Force have less in common with their fellow Australians than do Parliamentarians or Judicial Officers with other Commonwealth employees. While all are remunerated by the tax payer and all have specific roles within the Australian democracy, only one group, the Australian Defence Force, commits to obeying the directions of Government to go in harm's way and to accept that this may entail making the supreme sacrifice.
- 9.50 Members of the Australian Defence Force are citizens who commit to serving the ongoing security of Australia and its people and who, together, constitute the ultimate safeguard of our nation. They are remunerated by the Australian tax payers but are no less deserving of separate consideration than are Parliamentarians or Judicial Officers.
- 9.51 In his report about his review of the indexation of Commonwealth funded superannuation schemes, Mr Matthews noted that "some scheme members have a choice between a lump sum and an indexed pension."⁴¹ He went on to observe that a "pension indexation method that potentially enhances a superannuation pension, instead of protecting it against inflation, removes that comparability and provides a post-retirement employer contribution to pensioners that is not available to those who choose to receive the lump sum benefit."⁴²

⁴⁰ Note 13, Chap.4, para.4.2, p.17. "Pensions for members of the Parliamentary Contributory Superannuation Scheme...are indexed by increases in parliamentary salaries...Pensions paid to Federal judges from the Judges' Pensions Scheme are indexed by increases in judicial salaries..."

⁴¹ Ibid, para.8.6, p.46.

⁴² Ibid.

- 9.52 This is disingenuous because, amongst other reasons, it is based on the assumption that Government will always protect military superannuants from the effects of inflation. Service personnel recall that as a consequence of the *Superannuation and Other Benefits Legislation Amendment Act 1986*, the Commonwealth Government discounted the 1986 pension increase by 2% from 9.2% to 7.2% and continued with this discounting until 20th October 1989. This action was taken as a Budget measure in response to an unusually high rate of inflation and established an unwelcome precedent. Military personnel with superannuation entitlements who opt to take lump sums are well aware that similar or more draconian action with respect to the indexation of military superannuation payments could be taken in the future.
- 9.53 In addition, former service personnel opting to take lump sums in place of indexed pensions or part pensions know what they stand to gain or to lose by these once only choices both at the time of their decisions and in the long term. Those who opt for full or partial lump sum payments understand that they forego any benefit that might accrue through indexation. Conversely, those who opt for full or partial index pensions understand that they forego any benefit they might accrue by judicious investment of lump sums. For these reasons the argument mounted by Mr Matthews suggesting unfairness to those who opt for lump sums if the method of indexation of military superannuation payments is varied is specious.
- 9.54 Mr Matthews notes that 'some people shared with me, through their submissions, the difficult financial circumstances that they face, especially those who have been on a pension for many years.'⁴³ He then notes that the "Age Pension is a safety net benefit that guarantees all qualifying Australians a minimum income level if they do not have adequate superannuation or other forms of income or savings to support, or fully support themselves in retirement."⁴⁴
- 9.55 What he fails to acknowledge is that the plight of those who shared their financial data with him is in some instances so dire that the superannuants have to seek additional financial assistance from the Commonwealth. This is because indexation of their military superannuation pensions has been so inadequate for so long that the decline in purchasing power of their superannuation payments had forced them into applying for funds provided under the nation's safety net for the needy.
- 9.56 Had the recommendation of the Jess Committee that indexation of military superannuation be related to average weekly earnings to ensure those in retirement were able to maintain their living standards been accepted, this demeaning situation could have been avoided. More to the point, the angst would have been significantly less, and military superannuants in these stressful circumstances would have retained their dignity and their respect for a system they consider has abandoned them in old age.

10. Cost and Offsets

- 10.1 The RSL acknowledges that there will be an increased cost to the Australian taxpayer should Government agree to the proposition that military superannuation payments be adjusted by a more equitable measure than the Consumer Price Index and which matches cost of living increases. The League has not attempted to calculate the amount of the increase in Commonwealth appropriations either for a year of decision or for forward estimates because we do not have access to relevant data.

However, it is understood the amount of these increases is likely to be of the order of one quarter to one third of the amount envisaged by Mr Matthews in his review of all indexation of all Commonwealth superannuation schemes.

- 10.2 Offsets for these increases might include:

- a. one which can be calculated; and
- b. a second which is in prospect if a change to transition arrangements for ADF personnel returning to civilian life is implemented as envisaged by the RSL.

⁴³ Ibid, p.28.

⁴⁴ Ibid.

- 10.3 As earlier noted, the purchasing power of some military superannuants has been so reduced by application of the Consumer Price Index to their pensions that they have had no alternative but to obtain top-up payments from the social security safety net appropriations managed by Centrelink. The introduction of a form of indexation for military superannuants which matches cost of living increases has the prospect of eliminating the need for these safety net co-payments over time and of producing modest financial offsets.
- 10.4 A less tangible but prospectively more substantial financial offset is possible by streamlining the overly litigious, administratively complex, expensive and time consuming process experienced by some former members of the Australian Defence Force as they seek settlement of contested benefits during their transition from the Australian Defence Force to civilian status. A more effective and efficient transition arrangement in which the League is willing to play a part could reap significant savings and, of equal importance, reduce the angst and stress on former service personnel and their families.
- 10.5 To this end the RSL has commenced the compilation of a formal submission to Government proposing a new streamlined Services Transition Scheme based on existing Defence Recruiting Centres. Provided research now underway does not unearth significant reasons why the envisaged new transition scheme cannot be established, there is the potential for significant cost savings. These could arise because of a much reduced need for cases to be taken before appellant bodies such as the Veterans' Review Board and the Administrative Appeals Tribunal, and through a streamlining of administrative processes.
- 10.6 RSL volunteers who work as advocates, pension officers and welfare officers have a close association with many who experience difficulties as they transition back to civilian life after service in the Australian Defence Force. They also have a deep understanding of the issues involved and are in the main perceived as "honest brokers" lacking in bias, and they have a realistic understanding of the limits of benefits available under relevant legislation. They also have the confidence of service personnel and former service personnel seeking their help. Just as important is that they undertake relevant training administered by the Department of Veterans' Affairs and pride themselves in working harmoniously with officers of that Department as they seek to assist serving or former members of the Defence Force.
- 10.7 These RSL volunteers are for the most part military superannuants and the monetary value of the work they perform on behalf of the Australian community is considerable. In Victoria alone the "... RSL network contributed 1.197 million volunteer hours to communities across the State in 2007. This equates to \$23.95 million in volunteered time by some 8000 Victorians."⁴⁵ When this is added to similar efforts by RSL volunteers in the other States and Territories, the value to Australia each year is enormous.
- 10.8 There are two points to be made. The first is the need for Government to accept that it is unreasonable to rely on the willingness of military superannuant volunteers in providing the above mentioned services at no cost to the taxpayer while they are being treated unfairly with respect to the indexation of their military pensions. The second is that these RSL members have a clear understanding of the urgent need for a more effective and efficient transition arrangement for those leaving the Defence Force, and that they are willing to participate in making the system less expensive, less time consuming and more "user friendly".

11. Other Military Superannuation issues of concern

- 11.1 This list includes but is not limited to:
 - a. the continued use of outdated Life Expectancy Tables to calculate residual superannuation payments to DFRB and DFRDB members who have elected to commute part of their pensions;
 - b. the requirement for DFRB and DFRDB superannuants to pay tax after reaching age 65, albeit with a 10% rebate; and

⁴⁵ RSL Victoria Community Benefits Report 2007, p.11.

- c. the fact that DFRB and DFRDB superannuation recipients who have lived beyond their life expectancy year receive a reduced payment which has been described as "like paying off a mortgage but still having to pay off the ongoing interest on that mortgage."

11.2 The RSL intends making further submissions to Government about these issues.

12. Summary

- 12.1 This examination of an intractable issue impacting adversely on citizens with past service in the Australian Defence Force brings into sharp focus a fundamental question about the Australian democracy. Which body is paramount? The Parliament elected by the Australian people or the government appointed by those elected in the lower house of Parliament?
- 12.2 The RSL holds that Parliament is paramount and contends that only this representative body of the people has the authority to make decisions on issues such as that raised in this submission not least because they impact on the long term security of the nation.
- 12.3 The extraordinarily explicit Terms of Reference provided to the ministerially appointed 2007 inquiry into military superannuation is an example of the determination of Governments seeking to circumvent the will of the Parliament. There is no indication in these Terms of Reference that the Minister paid any heed to the findings and recommendations of the Senate Select Committee less than half a decade earlier.
- 12.4 As has been previously noted, the Australian Defence Force experienced great difficulty in retaining trained and experienced personnel particularly in key technical specialisations in the period immediately prior to the authorisation of the 2007 review. The manning situation in some mustering and specialisations was critical and one of the disincentives to continued service was a perception amongst serving members that the military superannuation benefits on offer after leaving the Australian Defence Force after a long period of service were less than reasonable. Why otherwise would the Government of the day have authorised an expensive review of this matter when, as has been recorded above, a Senate select committee had done almost the same thing only a few years earlier?
- 12.5 In making this point of principle, the RSL intends no explicit or implicit criticism of the three Australians who undertook the 2007 review of military superannuation – or of Mr Matthews who undertook the more recent 2008 review of a smaller aspect of the same subject. Instead we make the point that these reviewers were constrained by their Terms of Reference as to what they could examine – and that this was not the case for earlier Parliamentary inquiries where Members of the House of Representatives and Senators were free to inquire much more broadly.
- 12.6 It is therefore no surprise that both the Joint Select Committee of the Parliament in 1972 and the Senate Select Committee of 2001 reached the conclusion that the indexation of military superannuation pensions should be undertaken by reference to an index such as average weekly earnings that more accurately reflected the costs of living than did the Consumer Price Index. Nor it is a surprise that this strong recommendation of the elected representatives of the Australian people was not mirrored in the superannuation indexation review reports of 2007 and 2008 undertaken by unelected appointees of the Commonwealth Government.
- 12.7 The RSL:
 - a. advocates the adoption of an indexation regime for military superannuation pensions matching cost of living increases;
 - b. contends that the nexus between military superannuation schemes and other Commonwealth superannuation schemes for indexation of payments is a policy aberration, is inconsistent with the legislative base of the schemes, is unjust and recommends it be abandoned;
 - c. considers that the findings of the 2008 review of the indexation of superannuation are questionable and its recommendations unsafe because the inquiry terms of reference did not recognize the fact that the Commonwealth Parliament has thrice legislated for military superannuation schemes separate from civilian superannuation schemes;

- d. believes there is a divergence between the intent of the Parliament and the actions of Governments in dealing with the indexation of military superannuation and with the need for separate boards of management for military superannuation schemes to include military representatives;
- e. acknowledges that an extra cost to the taxpayer is involved and suggests an innovative means of obtaining a partial financial offset for this; and
- f. forecasts further RSL submissions about other less than satisfactory aspects of military superannuation schemes.

(This submission was forwarded to the Prime Minister, with copies to the Minister for Finance and Deregulation and the Minister for Veterans Affairs on 22 February 2010.)

Attachment 1: Examples of RSL members financially disadvantaged by the application of the Consumer Price Index to military superannuation pensions.

COMPARISON BETWEEN CPI and MTAW INDEXATION

Rank on Discharge	LtCol 2
Retirement Date	19-Feb-90
Age on Discharge	48yr 8mch
Years Service	29yr 290day
Salary on Discharge	\$49,164.00
Pension Factor	19.25%
Lump Sum	\$104,663.00
Pension F/N	\$768.94

	DFRDB Payments from Personal Records					MTAWE from ABS Web Site			Discrepancy Between CPI & MTAWE			
	Gross	Nett	\$ Incr	% Incr	Source Doc	Paid Rate	\$ Incr	% Incr	% Diff	\$ Diff	Annual	Overall
Mar-90	\$768.94	\$620.34										
12-Jul-90	\$790.48	\$640.18	\$22.04	2.9%	pro rata of 8.6%							
10-Jan-91	\$793.98	\$659.08	\$0.00	0.0%	y							
11-Jul-91	\$829.74	\$682.94	\$36.76	4.9%	y							
8-Jul-92	\$843.85	\$691.55	\$14.11	1.7%	y							
8-Jul-93	\$853.97	\$696.47	\$10.12	1.2%	y							
Jul-94	\$855.93	\$706.93	\$11.95	1.4%	y	\$714.40						
6-Jul-95	\$900.57	\$727.60	\$34.64	4.0%	Calculated	\$748.80	\$34.40	4.8%	0.8%	\$7.34	\$190.88	
4-Jul-96	\$932.99	\$748.99	\$32.42	3.7%	y	\$776.00	\$27.00	3.6%	-0.1%	-\$0.63	-\$16.38	\$174.51
3-Jul-97	\$945.12	\$759.22	\$12.12	1.3%	y	\$808.30	\$31.30	4.2%	2.9%	\$27.05	\$703.27	\$877.88
2-Jul-98	\$945.12	\$761.12	\$0.00	0.0%	y	\$838.90	\$30.60	3.8%	3.8%	\$35.78	\$940.72	\$1,808.15
1-Jul-99	\$955.32	\$768.02	\$10.40	1.1%	y	\$845.20	\$6.20	0.8%	0.3%	\$3.33	-\$6.71	\$1,721.44
13-Jul-00	\$982.27	\$810.27	\$26.75	2.8%	y	\$895.50	\$50.30	6.0%	3.2%	\$30.55	\$804.80	\$2,526.24
12-Jul-01	\$1,041.21	\$851.21	\$58.94	6.0%	y	\$929.00	\$34.10	3.8%	2.2%	\$22.82	\$594.43	\$1,932.82
10-Jan-02	\$1,052.66	\$858.66	\$11.45	1.1%	y					\$0.00	\$0.00	\$1,932.82
11-Jul-02	\$1,071.51	\$879.51	\$18.05	1.8%	y	\$975.40	\$45.80	4.9%	2.0%	\$21.72	\$564.72	\$2,497.53
9-Jan-03	\$1,086.61	\$888.61	\$15.00	1.4%	y					\$0.00	\$0.00	\$2,497.53
10-Jul-03	\$1,108.34	\$912.34	\$21.73	2.0%	y	\$1,033.90	\$58.50	6.0%	2.6%	\$28.79	\$748.53	\$3,246.06
8-Jan-04	\$1,114.99	\$916.99	\$6.65	0.5%	y					\$0.00	\$0.00	\$3,246.06
8-Jul-04	\$1,130.50	\$926.50	\$15.61	1.4%	y	\$1,070.90	\$37.00	3.6%	1.6%	\$17.85	\$464.06	\$3,710.13
6-Jan-05	\$1,140.78	\$934.78	\$10.18	0.9%	y					\$0.00	\$0.00	\$3,710.13
7-Jul-05	\$1,156.75	\$956.75	\$15.97	1.4%	y	\$1,133.40	\$62.50	5.8%	3.5%	\$40.91	\$1,067.53	\$4,773.66

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COMPARISON BETWEEN CPI and MTAW INDEXATION

5-Jan-06	\$1,175.26	\$969.26	\$18.51	1.6%	Y					\$0.00	\$0.00	\$4,773.66
6-Jul-06	\$1,191.71	\$1,001.71	\$16.45	1.4%	Y	\$1,164.60	\$31.20	2.8%	0.2%	\$2.95	\$76.60	\$4,697.06
4-Jan-07	\$1,221.50	\$1,021.50	\$29.79	2.5%	Y					\$0.00	\$0.00	\$4,697.06
5-Jul-07	\$1,221.50	\$1,169.50	\$0.00	0.0%	Y	\$1,225.00	\$60.40	5.2%	2.7%	\$32.82	\$853.22	\$5,550.28
3-Jan-08	\$1,244.71	\$1,186.71	\$23.21	1.9%	Y					\$0.00	\$0.00	\$5,550.28
3-Jul-08	\$1,273.34	\$1,246.34	\$28.63	2.3%	Y	\$1,287.90	\$62.90	5.1%	0.9%	\$11.90	\$309.36	\$5,859.65
1-Jan-09	\$1,307.72	\$1,277.72	\$34.38	2.7%	Y					\$0.00	\$0.00	\$5,859.65
2-Jul-09	\$1,307.72	\$1,279.72	\$0.00	0.0%	Y	\$1,352.90	\$65.00	5.0%	2.3%	\$30.69	\$797.99	\$6,657.64
14-Jan-10	\$1,324.72	\$1,296.72	\$17.00	1.3%	Y							\$6,657.64
% Increase since Aug 94				44.6%	MTAWE % increase since Aug 94	65.4%	Discrepancy since Aug 94				\$6,657.64	
Rank on Discharge	Sgt											
Retirement Date	11-Dec-05											
Age on Discharge	42 yrs											
Years Service	18yr 199day											
Salary on Discharge	\$52,414.00											
Pension Factor	3.92%											
Lump Sum	\$35,765.00											
Pension F/N	\$609.80											
DFRDB Payments from Personal Records						MTAWE from ABS Web Site			Discrepancy Between CPI & MTAWE			
	Gross	Nett	\$ Incr	% Incr	Source Doc	Paid Rate	\$ Incr	% Incr	% Diff	\$ Diff	Annual	Overall
19-Jan-06	\$609.80	\$447.80										
6-Jul-06	No upward Sep 06 to Mar 07					1.4%						
4-Jan-07	No upward 5 Jul 07					2.5%						
5-Jul-07	\$633.80	\$571.80	\$24.00	3.9%	Y	\$1,225.00	\$60.40	5.2%	1.3%	\$8.24	\$214.22	\$658.16
3-Jan-08	\$645.84	\$581.84	\$12.04	1.9%	Y					\$0.00	\$0.00	\$658.16
3-Jul-08	\$660.69	\$618.69	\$14.85	2.3%	Y	\$1,287.90	\$62.90	5.1%	0.9%	\$6.18	\$160.56	\$818.72
1-Jan-09	\$678.53	\$632.53	\$17.84	2.7%	Y					\$0.00	\$0.00	\$818.72
3-Jul-09	\$678.53		\$0.00	0.0%	Y	\$1,352.90	\$65.00	5.0%	2.3%	\$15.92	\$414.05	\$1,232.77
14-Jan-10	\$687.35	\$643.35	\$8.82	1.3%	Y					\$0.00	\$0.00	\$1,232.77
% Increase from July 06				12.1%	MTAWE % Increase from July 06	18.2%	Discrepancy since Jul 06				\$1,232.77	

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