
Finance and Public Administration
Legislation Committee

Provisions of the Members of Parliament
(Life Gold Pass) Bill 2002

September 2002

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ISSN: 1326-9356

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Chapter 1

Introduction

Referral of Bill to the Committee

1.1 The Members of Parliament (Life Gold Pass) Bill 2002 was introduced into the House of Representatives on 26 June 2002. On 27-28 June, Senator Hill referred the Bill to the Committee for inquiry and report on 26 August 2002. On 22 August, the Senate granted an extension of the reporting date until 19 September 2002.

Conduct of the inquiry

1.2 The inquiry generated considerable public interest and the Committee received many submissions from the public, including a petition with 91 signatures. Submissions were also received from some members of parliament (members¹) and a number of individuals and organisations, including the Australian National Audit Office, the W.A. Salaries and Allowances Tribunal, the Clerk of the Senate and the Association of Former Members of the Parliament of Australia. The full list of submissions is at **Appendix 1**.

1.3 The Committee met in public to consider the Bill on 23 August 2002. A list of those who gave evidence at the public hearing is at **Appendix 2**.

Background

1.4 Parliamentarians' entitlements are authorised under the *Parliamentary Entitlements Act 1990* (the PEA). Benefits are set out in Schedule 1, Part 1 of the Act. The Act also allows for:

- additional benefits to be determined either by the Remuneration Tribunal (the Tribunal) or by regulations pursuant to the Act (Section 5 of the PEA);
- for benefits in Schedule 1 to be varied or omitted by determination of the Tribunal (Section 9 of the PEA); and
- in the case of inconsistency between Tribunal determinations and the regulations, for the regulations to prevail (Section 10 of the PEA).

1.5 Section 7 of the *Remuneration Tribunal Act 1973* (the RT) provides authority for the Tribunal to inquire into and determine allowances for members, including Office Holders and Ministers. The Tribunal was established in 1973 as a result of the 1971 Kerr review that recommended establishment of an independent tribunal with the function of reporting into and determining the salaries and allowances of Senators

1 In this report, the term 'members' refers both to members of the House of Representatives and Senators.

and Members, and the allowances of Ministers and Office Holders of the Parliament. The Tribunal began to determine parliamentary salaries and allowances from 1974. It was intended that the work of the Remuneration Tribunal would de-politicise the issue of parliamentary remuneration and conditions.

Present situation – Life Gold Pass

1.6 The Life Gold Pass is currently determined in Clause 7 of the Remuneration Tribunal Determination 1998/26 (Members of Parliament Entitlements). The Tribunal first dealt with the Life Gold Pass in 1976. Prior to this, final decisions on eligibility for the entitlement rested with executive government. The Life Gold Pass is believed to have commenced, on a limited basis, after the 1918 Premiers' Conference and comprised entitlement to free rail travel for retired members based on the achievement of a qualifying period of service. Over the period up until 1976, the Life Gold Pass underwent a number of changes regarding the nature of the entitlement, the persons to whom the Life Gold Pass was available and the qualifying period for eligibility.

1.7 In 1993, the Tribunal determined that retiring parliamentarians who satisfied the qualifying periods for the Life Gold Pass would be entitled to travel within Australia (excluding the external territories) at public expense for non-commercial purposes up to a maximum of 25 return trips per year. Benefits also extend to the spouses of Life Gold Pass holders, and to widows/widowers of pass holders who retain entitlement to benefits for 12 months after the death of the parliamentarian.

1.8 Until implementation of this Tribunal decision in 1994, persons qualifying for the Life Gold Pass, including all former Prime Ministers, were entitled to unlimited travel for non-commercial purposes under the Life Gold Pass.

1.9 The Australian National Audit Office (ANAO) 2001 performance audit of parliamentarians' entitlements² found a number of problems with the current Life Gold Pass arrangements including:

- the inconsistency between travel entitlements available to sitting members (travel must be for reasons connected with their parliamentary duties) and former members eligible for a Life Gold Pass (travel must be for non-commercial purposes, for example, holidays);
- the lack of a financial cap to Life Gold Pass travel entitlements leading to instances of significant expenditure by Life Gold Pass holders or their spouses who were entitled to unlimited travel at public expense by virtue of becoming eligible prior to 1994; and
- the doubtful legality of the use of Comcar and similar services.³

1.10 A further problem associated with the Life Gold Pass was the lack of a disqualification mechanism, similar to that applying to superannuation, for pass holders convicted of a corruption offence.

2 Audit Report No. 5 2001-2002 *Parliamentarians' Entitlements: 1999-2000*

3 Bills Digest, Members of Parliament (Life Gold Pass) Bill 2002, p. 3

1.11 On 27 September 2001, in response to the ANAO performance audit, the Prime Minister announced changes to printing and travel entitlements for sitting and former members, including to Life Gold Pass entitlements.

Purpose of the Bill

1.12 The main purpose of the Bill is to establish a uniform set of arrangements for all Life Gold Pass holders, their spouses, the widows or widowers of deceased pass holders and spouses of sitting members who have qualified for a Life Gold Pass. The Bill proposes annual limits to travel entitlements for all eligible pass holders for the first time. The Government's view is that the previous entitlement to unlimited travel was 'beyond community standards'.⁴ The Bill does not, however, impose a financial cap to individual entitlements or to the overall cost to the Commonwealth of retirement travel entitlements.

Effect of the Bill

1.13 The Bill removes the responsibility for determining the level of entitlements available under the Life Gold Pass from the Remuneration Tribunal and proposes instead that the entitlements be the subject of determination by the Parliament through the Act. The legislation proposes:

- a regime of entitlements for former members who are eligible for the Life Gold Pass, their spouses and/or widows/widowers;
- reduced entitlements for those presently qualifying for uncapped retirement travel entitlements (that is, former members, their spouses and the widows/widowers of former members who qualified for Life Gold Passes prior to 1994);
- transition arrangements, taking account of all possible individual circumstances, to apply during 2002-2003;
- penalties for non-compliance or misuse of entitlements; and
- disqualification from entitlements, linked to forfeiture of superannuation benefits, for persons convicted of a corruption offence.

1.14 The Bill does not change the governing legislation, that is, the PEA or the RT. It makes it clear that responsibility for determining *eligibility* for, as opposed to the *level* of, Life Gold Pass entitlements remains with the Remuneration Tribunal. It emphasises that, in addition to the determination of eligibility for the Life Gold Pass, other benefits provided by Tribunal determinations remain unaffected, with the exception of the cessation of severance travel for a person convicted of a corruption offence.

4 *Parliamentary Entitlements*, Press release by the Prime Minister, the Hon John Howard, MP, 27 September 2001

1.15 The qualifying periods for eligibility for Life Gold Pass as set out in clause 7.2 of Determination 1998/26 are:

Office	Qualifying Period
Prime Minister	One year
Ministries (other than Parliamentary Secretaries)	Six years
President of the Senate	Six years
Speaker of the House of Representatives	Six years
Leader of the Opposition	Six years
Parliamentary Secretaries and Senators and Members	Twenty years or the life of seven parliaments

1.16 The Department of Finance and Administration (DOFA) will be responsible for administering the Act. The proposed limitation on entitlements is expected to result in a fall in overall expenditure.

Proposed Life Gold Pass entitlements

1.17 The main changes are:

- Imposition of limits on future entitlements for persons qualifying for eligibility for the Life Gold Pass (all entitlements subject to pro-rata rules) as follows:
 - for eligible **former Prime Ministers** and their **spouses** – up to 40 return trips per annum (for spouses, no more than 10 trips per annum may be for purposes other than to join or accompany the former Prime Ministers);
 - for **widows/widowers** of eligible **former Prime Ministers** – up to 10 trips per annum for the first 5 years commencing on the death of the former Prime Minister and 5 trips per annum thereafter;
 - for all eligible **former members** and their **spouses** – up to 25 return trips per annum (all spouse travel must be to join or accompany their spouse);
 - for spouses of eligible **sitting members** – spouses of the Prime Minister are entitled to 40 domestic return trips per annum (must be to join or accompany their spouse); all other members' spouses are entitled to 25 domestic return trips per annum to join or accompany their spouses; and
 - for **widows/widowers** of eligible **former members** who die after the commencement of the Act – up to 10 domestic return trips in the first year following the member's death, and up to 5 domestic return trips in the next year after which the entitlement ceases.
- Replacement of the existing entitlement to unlimited travel at public expense presently enjoyed by the widows or widowers of deceased pass holders who had

retired from the Parliament before 1 June 1976 with limited travel entitlements as follows:

- For passholders who died in the 12 month period preceding the commencement of this section – the same entitlement set out above for widows/widowers of eligible former members.
- For passholders who died before the commencement of this section:
 - a maximum of 10 domestic return trips in the 12 month period beginning at the commencement of this section;
 - a maximum of 10 domestic return trips in each of the next 4 succeeding 12 month periods; and
 - a maximum of 5 domestic return trips in each subsequent succeeding 12 month period.
- Inclusion of a forfeiture provision linked to the forfeiture of superannuation benefits following conviction of a ‘corruption offence’ as defined in the *Crimes (Superannuation Benefits) Act 1989* (to apply to Life Gold Pass holders and former parliamentarians who qualify for severance travel benefits); and
- Inclusion of a special appropriation provision (up until now the cost of some Life Gold Pass travel has been met by special appropriation with some from annual appropriation).

1.18 The Bill also includes a range of provisions aimed at clarifying and enhancing the arrangements. These include clear statements concerning:

- the type of travel that may be undertaken;
- definitions, for example, definition of ‘a return trip’;
- how to treat stopovers; and
- what constitutes a ‘commercial purpose’.

1.19 The disqualification provisions (Part 6) relating to forfeiture of entitlements on conviction of a corruption offence are planned to take effect on Royal Assent. The other provisions are planned to take effect 28 days after receiving Royal Assent for administrative reasons – chiefly to allow time to notify pass holders, their spouses and widows/widowers about the new arrangements.

1.20 The measures setting limits to entitlements were foreshadowed in the Prime Minister’s statement on parliamentary entitlements of 27 September 2001.

Issues arising during the inquiry

1.21 A number of issues arose during the inquiry and these are discussed in the next section of the report. They include:

- the purpose of the Bill and the appropriateness of the entitlements;
- the nature of the entitlements and the conditions underlying them;

- the financial implications of the Bill;
- retrospectivity;
- administration of the entitlements including accountability, certification and reporting arrangements, and transparency;
- the definition of spouse included in the Bill;
- disqualification provisions in relation to criminal offences; and
- related entitlements, for example, regarding unscheduled transport services such as Comcar.

Chapter 2

Issues

Standardising and limiting the entitlements

2.1 The Committee received differing views on the Bill. While aspects of the Bill were seen as improving the current system, there was a strong vein of criticism running through much of the evidence. Notably, there was overwhelming public criticism of the system of entitlements for former members. This view was more a blanket opposition to the entitlements system per se than a detailed critique of the Bill itself. Other bodies directed their concerns to particular elements of the Bill, such as technical matters or areas of perceived inconsistency.

2.2 In the next sections, the Committee discusses the main issues to emerge in the evidence. It makes its conclusions on the Bill in chapter 3.

Summary of views

2.3 The Australian National Audit Office (the ANAO) supported the Bill's clarification of the policy on retirement travel entitlements for former members and, in particular, the proposed standardisation of pre- and post- 1976 arrangements. It noted that the entitlements differed from retirement benefits applying in some other countries, in that the proposed limits relate to the number of trips allowable, and the value of the benefit is not financially capped. It considered the travel entitlements were more generous than those offered in other countries.¹

2.4 The Association of Former Members of Parliament of Australia (the AFMPA) argued strongly for retention of the entitlements. It stated that the entitlements should be seen as part of a package of remuneration for members. It maintained that the life and work of members could not be compared with that of any other profession, and argued that members' salaries were inadequate in relation to the responsibilities and duties of their offices. It considered the Life Gold Pass travel entitlements were, in effect, postponed benefits for duties undertaken over many years' service. Mr Tony Lamb told the Committee:

The other thing the public should be aware of—we certainly are—is that while we compare the life, the remuneration, the benefits of a member of parliament with that of the private sector, the size of the responsibilities of Qantas and energy bodies, and so on, pales when you think of the size of the biggest business in this country, federal government, which is the federal parliament's responsibility. It is the biggest business and it affects everybody, not just some—not just rail travel, not just energy users but every person in this country. We are talking about a unique business, a

1 *Committee Hansard*, p. 2

unique job, and therefore comparisons with others should be put to one side.²

Pro bono work

2.5 The AFMPA stated that most travel undertaken by former members was for the purposes of ‘pro bono’ or charity work and that this could be jeopardised if the entitlements were reduced.

Former Parliamentarians are asked to take on tasks because of their experience in the parliament and their local, regional and/or national profile. Life Gold Pass holders, many of them former Ministers, are asked to perform many tasks which they would not be able to perform if they had to pay for transport, including transport to an air terminal.³

2.6 It also advised that most Life Gold Pass travel was undertaken by recently retired former members and that, in its view, the rationale for the entitlements was to enable former members to continue to provide service to the Australian community.⁴

2.7 On the other hand, Mr Peter Andren MP, Member for Calare, argued that ‘charity’ appearances, in the true definition of the word, should involve a contribution from the former member’s own pocket to the cause, rather than from the public purse.⁵

2.8 The W.A. Salaries and Allowances Tribunal took the view that, rather than providing for an ongoing allowance, it was more appropriate for charities and other organisations to pay for or subsidise the costs of people they approached for assistance, such as former parliamentarians. It considered that the organisations themselves might obtain subsidisation to enable them to pay the costs of people providing a service to them. In this regard, it saw no difference between retired businessmen and retired politicians.⁶

2.9 Mr Brian Moore, the recently retired long-serving Executive Officer of the W.A. Salaries and Allowances Tribunal, also supported the Tribunal’s contention that other retirees from all walks of life had ‘a wealth of information and experience to offer’.⁷ In other words, former parliamentarians were not unique in this respect. He questioned both the extent of involvement in community work of former members as a group, and, for those who were involved, the need for entitlement to such a large number of trips per annum. He also supported the view that the costs of travel for

2 *Committee Hansard*, p. 27

3 Submission no. 59, p. 2

4 *Committee Hansard*, pp. 19, 21

5 Submission no. 14, p. 2

6 *Committee Hansard*, pp. 29-30

7 Submission no. 49, p. 3

charity work should be borne not from travel entitlements but from the budget of the organisation concerned.⁸

Lack of equity

2.10 The Committee received a large number of submissions from the public objecting to the continuation of the Life Gold Pass and the awarding of travel or any kind of entitlement to former members once they had left office. Overwhelmingly, public sentiment favoured the immediate cessation of such benefits or ‘privileges’, and the phasing out of benefits available to existing pass holders. Two sitting members, Mr Peter Andren MP, Member for Calare, and Ms Kay Hull MP, Member for Riverina, and Senator Len Harris, Senator for Queensland, also made submissions. They opposed the continuation of the Life Gold Pass on the grounds of equity, because of the potential for abuse and because the funds would be better spent on community services. Ms Hull considered that members were ‘more than adequately compensated while serving the people of Australia’ and opposed the continuing burden on taxpayers of a benefit reserved only for former politicians.⁹

2.11 Submitters argued that the travel entitlements were ‘perks’ that had no place in modern Australian society, where tenure of employment was not guaranteed and continuity of employment was tied to satisfactory performance assessment. Some submissions referred to the historical basis of the entitlements. They pointed out that changes regarding members’ remuneration, the age of entry to parliament, expected length of service, the maintenance of contacts made in parliament and ease of travelling between different parts of the country meant that the original justification for the entitlements no longer existed.

2.12 Submitters strongly criticised the entitlements as being inequitable because they were available to a privileged group of people only, and some pointed to the inconsistency between the entitlements available to retired veterans and former members. Many considered that people in many other walks of life contributed as much commitment, time and effort to society as former members in professions that involved similarly long hours, extensive travel and time away from families.

2.13 The entitlements were also considered inequitable in light of the continuing budgetary constraints faced by ordinary Australians ‘who struggle to make ends meet and [are] forced to endure doctor shortages, sub-standard roads and infrastructure’.¹⁰ Many referred to the generous superannuation benefits already received by former members of parliament. They argued that parliamentarians’ superannuation benefits were excessive and out of step with community standards, and that any additional benefits such as the Life Gold Pass travel entitlements were completely unjustified.

8 Submission no. 49, p. 3

9 Submission no. 27, pp. 1-2

10 Submission no. 27, p. 1

2.14 Many submissions also strongly opposed the travel entitlements available to the spouses and widows/widowers of Life Gold Pass holders.

Remuneration and work value

2.15 Mr Brian Moore advised the Committee that ‘work value studies undertaken for members of parliament in the federal scene and the state scenes place the remuneration for members of parliament higher than it currently is’. He noted that recognised work value methodologies clearly showed that neither state nor federal parliamentarians received remuneration equivalent to their respective levels of responsibility.¹¹

2.16 He explained that the W.A. Salaries and Allowances Tribunal was unique amongst Australian jurisdictions with responsibility for determining both salaries and entitlements within its jurisdiction, including parliamentary superannuation and retirement benefits for former premiers, Ministers, office holders and members of the Western Australian parliament. By contrast, salaries for federal members were not set by the Remuneration Tribunal but by reference to the salaries of the principal executive officers of Australian Public Service (APS) agencies.

2.17 He further advised that the W.A. Tribunal had taken the view that it was more appropriate for a person to be remunerated appropriately while giving service, rather than afterwards. It had, therefore, on the basis of work value studies, awarded a salary increase to State members in return for reducing and, finally, phasing out the retirement travel benefits to which former members had previously been entitled after qualifying periods of service.¹²

2.18 When questioned by the Committee about the linking of members’ entitlements to Senior Executive salaries in the APS, the ANAO advised the Committee that travel entitlements were not and had never been available to Commonwealth public servants, their spouses or widows/widowers on their retirement.¹³

International comparisons

2.19 DOFA advised the Committee that it understood that Life Gold Pass entitlements were ‘ahead of the field’ with regard to former member’s retirement benefits internationally. It noted, however, that they had always been considered part of a ‘total package’ and that federal members’ salaries were somewhat lower than might be expected. It referred to Parliament’s rejection of the recommendation by the

11 *Committee Hansard*, p. 26

12 *Committee Hansard*, p. 27

13 *Committee Hansard*, p. 4

Remuneration Tribunal to increase the salaries of federal members and the consequent introduction of the Parliamentary Remuneration and Allowances Act.¹⁴

Cost of entitlements

2.20 The ANAO advised the Committee that the overall cost of ‘maintaining’ members and senators was difficult to determine because several different agencies were involved in the provision of entitlements. It stated that the total expenditure on Life Gold Pass travel entitlements was about two million dollars per annum but could not provide estimates of savings that might result from the proposed changes to entitlements. It noted, however, that the number of people in the pre-1994 group (whose entitlements would be limited under the Bill) was small and decreasing.

2.21 It advised the Committee that most pass holders did not take more than 25 trips per annum and that expenditure by most on their travel entitlement amounted to less than \$20,000 per annum. It qualified these remarks by noting that it was likely that not all expenditure was being captured by Finance. In particular, expenditure on Life Gold Pass holders’ use of rail passenger services, and reporting on a cash rather than accrual basis introduced a degree of approximation into reported Life Gold Pass travel expenditure. However, it considered that the likelihood that significant expenditure was not being captured was ‘slim’.¹⁵

2.22 The AFMPA pointed out that most Life Gold Pass holders travel very little and that the great majority of use of Life Gold Pass travel entitlements was by recently retired former members. It also stated that the average cost of Life Gold Pass travel per member was less than \$20,000 per annum. It stated that more costly travel was largely attributable to former members in remote areas, and that a considerable amount of recent travel by former members was due to involvement in celebrations marking the anniversary of Federation. It therefore claimed that the proposed changes to entitlements would provide negligible cost savings. According to Mrs Sullivan:

the financial information that we have been provided with is payment of travel entitlements, 1 January to 30 June 2001 and then 1 July to 31 December 2001....

Of the 142 people who come into the category of having a life gold pass entitlement, 132—that is, 93 per cent—in the period I am referring to used less than \$20,000.¹⁶

2.23 Mr Brian Moore supported the AFMPA’s view that the cost of travel undertaken by former members diminished as they got older.¹⁷

14 *Committee Hansard*, p. 11

15 *Committee Hansard*, p. 3

16 *Committee Hansard*, p. 18

17 *Committee Hansard*, p. 28

2.24 The W.A. Salaries and Allowances Tribunal advised the Committee that the cost of entitlements was a consideration in that Tribunal's decision to phase out the entitlements.¹⁸

Flexibility of the entitlements

2.25 The Clerk of the Senate referred to the public's adherence to the 'Cincinnatus principle, that political office-holders when they leave office revert to being private citizens with no special entitlements'. He argued that a good case could be made for travel by former members at public expense for public purposes, and called for more flexibility in the arrangements. But he pointed out that use of the entitlement for purely private travel, as in the case of the Life Gold Pass, made it harder for the public to understand and accept travel by former members for legitimate purposes.¹⁹

2.26 Some submitters argued that a case could be made for a travel entitlement for former Prime Ministers, but that this should cease after a certain period and be limited to travel associated with public duties that he or she might undertake after leaving office. A small number of submitters argued that much more limited entitlements might be considered for former members of parliament, but with eligibility determined according to one or more of the following conditions:

- minimum length of service (for example, 20 years);
- graduated eligibility scale (for example, 1 year pass after 6 years' service, with an additional year's pass for every additional 3 years' service);
- the imposition of a financial cap;
- the application of an assets and income test; and
- payment of half the cost of every trip by the former member.

2.27 Ms Hull suggested that an alternative to the proposed Life Gold Pass entitlements would be travel entitlements that would allow recently retired former members to fulfill their obligations to Committees. In her view:

In order to allow the Government to utilise the political expertise and experience of former members in future committees, a system whereby former members could apply to have their travel expenses compensated would be a more practical and cost effective measure. This way, the Government would not lose valuable expertise and the electorate would be assured their taxes are not being squandered.²⁰

18 *Committee Hansard*, p. 29

19 Submission no. 19, p. 2

20 Submission no. 27, p. 1

Consolidating existing arrangements

2.28 The Bill provides a legislative basis for the entitlements. In the past, the entitlements have been provided under different authorities at different times, including by the Remuneration Tribunal and by executive decision.

2.29 The Bill also provides a new single appropriation for the Life Gold Pass. Previously, the cost of Life Gold Pass travel had been met in part from special appropriations and in part from annual appropriations.

Summary of views

2.30 DOFA advised that the Bill was an improvement to the present situation in that it attempted to ‘bring a consistent approach to the entitlements of former senators and members’. However, it did not consider that it assisted ‘in rationalising the heads of authority for the various entitlements’.²¹

2.31 In his submission, the Clerk of the Senate stated that the Bill did not go far enough in consolidating entitlements but, instead, added ‘another statute to the various scattered sources which must be consulted in order to ascertain the entitlements of members of the Parliament’.²² He argued that a greater consolidation of entitlements would be highly desirable to improve the transparency of the arrangements and reduce the perception that members are entitled to a range of excessive privileges. He observed:

It would be highly desirable to undertake a greater consolidation of entitlements, so that they could be more easily located and seen. The current situation, apart from inconvenience, adds to the unfortunate perception that members enjoy an enormous range of entitlements of boundless munificence. The scattered authorities result in an actual lack of transparency and an impression of concealment.²³

2.32 The Hon Duncan Kerr MP, Member for Denison, argued that, to ensure objectivity, entitlements granted to and remuneration paid to members should be determined by an established and independent tribunal, rather than the Parliament itself.²⁴

Definition of spouse

2.33 Clause 4 in Part 1 of the Bill defines ‘spouse’ in relation to a person as the ‘de jure’ spouse, that is ‘the person’s legally married husband or wife’. The definition excludes de-facto spouses as well as members of a same-sex couple.

21 *Committee Hansard*, p. 12

22 Submission no. 19, p. 1

23 Submission no. 19, p. 1

24 Submission no. 21, p. 1

2.34 This definition is consistent with the definition of spouse that presently applies in relation to Remuneration Tribunal Determination 1998/26. The Explanatory Memorandum notes that ‘the legal effect of the definition is that it overrides earlier legislation such as s.26 of the *Sex Discrimination Act 1984*.²⁵

Summary of views

2.35 The Committee received considerable representation in submissions and in evidence at the public hearing opposing the proposed definition of spouse as outdated and moralistic. The AFMPA said that the definition needed revision. It considered that the definition was too limited and opposed the inclusion of a ‘moral definition’ in the Bill.²⁶

2.36 The ANAO stated that it would be appropriate for the definition to be consistent with that used in other forms of legislation. It was pointed out that the proposed definition is not consistent with the definition in the *Parliamentary Entitlements Act 1990*. In that Act, a spouse in relation to a member includes ‘a person who is living with the member as the spouse of the member on a genuine domestic basis although not legally married to the member’.²⁷

2.37 Amongst many other submitters, Mr Peter Andren MP, Member for Calare, opposed the definition which he described as one of many ‘laughable contradictions’ in the Bill.

Why do we adhere to the quaint “spouse” definition as *de jure* spouse? Surely in this day and age a *partner* should be included? To not do so is a sad joke and further underlines how far out of touch this system is with reality.²⁸

Purpose of travel – definition of commerciality

2.38 An important issue for the inquiry was the purpose for which travel may be undertaken using Life Gold Pass entitlements. The Bill continues the current arrangements set out in Remuneration Tribunal Determination 1998/26 that travel undertaken using the Life Gold Pass must be for ‘non-commercial purposes’. This could include holidays and other private purposes.

2.39 Clause 4 of Part 1 of the Bill defines ‘commercial purpose’ as ‘a purpose relating to the derivation of financial gain or reward’. The Explanatory Memorandum

25 Explanatory Memorandum, p. 4

26 *Committee Hansard*, p. 17

27 *Parliamentary Entitlements Act 1990*, Section 3

28 Submission no. 14, p. 2

further notes that ‘this would include attendance at meetings of a government appointed board or advisory board for which a sitting fee is paid’.²⁹

Summary of views

2.40 DOFA advised the Committee that it was sometimes difficult to verify the purpose for which travel was undertaken and that they relied on certification by former members as a check on the nature of travel undertaken using the pass. Ms Jan Mason, General Manager, Ministerial and Parliamentary Services, told the Committee:

The process is in the certification that we receive in relation to the travel costs that appear in the proposed tabling statement. Short of shadowing former senators and members and observing their activities, it is difficult for us to ascertain whether or not the travel has been undertaken for commercial purposes.³⁰

2.41 The Department also advised that the terms of the Bill would not preclude Life Gold Pass travel being undertaken for party political purposes since the only prohibition in the Bill was that it not be used for a commercial purpose.³¹

2.42 The AFMPA advised the Committee that it would be difficult to classify travel by purpose because the reasons for which travel using the Life Gold Pass was undertaken were very diverse. Former members received a wide range of invitations to attend and/or provide representation at meetings, functions, conventions and similar forums, and other uses included, for example, for attendance at funerals and other unofficial events and for private travel. AFMPA was strongly in favour of transparency in relation to Life Gold Pass reporting and pointed out that former members were subject to ‘the same auditing and probity as members and senators’.³²

2.43 A number of submissions referred to the requirement that Life Gold Pass travel be ‘non-commercial’ in nature, arguing that such travel appeared to be essentially private and was, in effect, a perk that was not available to anyone other member of the community and completely unjustified. Many submissions also argued that the entitlements were open to abuse and manipulation because of the vagueness of the definitions and the difficulties around certification.

2.44 Mr Peter Andren MP, Member for Calare, claimed that, by defining ‘commercial purpose’, the Bill ‘underscores the fact the travel is simply a taxpayer-funded luxury.’ He further argued that any such free travel should always be for ‘public duty’. He referred to the lack of clear differentiation between commercial purpose and public duty in relation to the Bill, and noted that it would be difficult to

29 Explanatory Memorandum, p. 3

30 *Committee Hansard*, p. 8

31 *Committee Hansard*, p. 6

32 *Committee Hansard*, pp. 19, 21

obtain clarification if travel by former members was conducted ‘from the same taxpayer-funded office and facilities’.³³

2.45 As noted above, while the vast majority of submissions opposed any Life Gold Pass entitlements, some referred to the possibility of legitimate limited travel entitlements that might be provided to some former members, in particular, to former Prime Ministers and Ministers. Travel that was a direct consequence of the duties of a former member’s former office, that was for a limited period only, and that provided an opportunity for ongoing public service might fall into this category.

2.46 The Clerk of the Senate argued that, if post-retirement travel was restricted by purpose and to a limited time period, a case could be made for more flexibility in the awarding of travel entitlements to a larger group of former members. For example, travel entitlements might be provided to all former senators who were involved in orientation seminars for new senators – this would allow other former senators, in addition to those qualifying for a Life Gold Pass or severance travel to be available for this purpose. He also suggested that travel entitlements might be considered for senators-elect, to enable them to travel ‘to prepare themselves for office before the beginning of their terms’.³⁴

Retrospectivity

2.47 The Bill proposes replacing the existing entitlements to unlimited travel presently enjoyed by former members who qualified for the Life Gold Pass before 1994, their spouses and widows/widowers. The new entitlements are proposed to commence 28 days after Royal Assent. The effect of the Bill is to reduce existing entitlements for some entitlees, so that the different classes of pass holders will, in the future, be eligible for the same travel entitlements.

Summary of views

2.48 The AFMPA strongly opposed what it described as the Bill’s ‘retrospectivity’, on the grounds that it would set a dangerous precedent and that, more importantly, it would constitute interference with ‘a recognised contract at law’.³⁵ AFMPA claimed that members had entered into contracts with the Parliament of Australia and that, while acknowledging that it was not illegal for legislation to include the ‘stripping of benefits’, such interference with a recognised contract was, in its view, contestable in court. It claimed that employees in both the private and public sector would strongly defend their right to benefits specified in a contract of employment. It argued that retrospective removal of expected benefits had much more impact on retired persons because they were more economically vulnerable than people who had the opportunity for further employment. It drew the Committee’s attention to the fact that AFMPA had successfully argued on the basis of this principle on another matter before the

33 Submission no. 14, pp. 2, 3

34 Submission no. 19, p. 2

35 *Committee Hansard*, p. 16

Remuneration Tribunal, which had decided not to apply the determination in question to former members.³⁶

2.49 AFMPA referred to the decision by the W.A. Salaries and Allowances Tribunal not to reduce benefits to existing entitlees when it decided to phase out travel entitlements that had formerly been available to eligible retiring State parliamentarians. It claimed that this was recognition of adherence to the ‘contract in law’ as a basic principle of employment.³⁷

2.50 As noted earlier, AFMPA further argued that, since the trend was to diminishing use of Life Gold Pass entitlements with increasing years of retirement, the financial impact of retrospectivity was minimal. DOFA and the ANAO supported AFMPA’s position regarding trends in use of the entitlements.

2.51 In his submission, Mr Brian Moore confirmed that the W.A. Salaries and Allowances Tribunal did not alter the benefits to those already in receipt of them, although he noted that they ‘were not of the magnitude applying in the Federal arena’.³⁸ In evidence to the Committee, he questioned the appropriateness of removing entitlements from those who had left the parliament with the expectation of receiving a benefit.³⁹

2.52 In response to AFMPA’s claims that the Bill’s retrospectivity constituted a breach of contract, Senator Harris put the view that members had entered into a contract with their constituents rather than with the Parliament. Senator Harris pointed out that his submission included the views of One Nation constituents that ‘the people of Australia employ the members of parliament’.⁴⁰ He therefore maintained that, if the overwhelming public view was that the contract should be changed (as appeared to be the case), the implied retrospectivity in the Bill did not constitute a breach of contract.⁴¹

Certification and accountability

2.53 The Bill proposes no change to the certification arrangements regarding Life Gold Pass travel entitlements.

Summary of views

2.54 As noted in Chapter 1, the ANAO pointed to a number of problems regarding the administration of the Life Gold Pass in its 2001 audit of parliamentary

36 *Committee Hansard*, pp. 16, 21, 23-24

37 *Committee Hansard*, p. 16

38 Submission no. 49, p. 2

39 *Committee Hansard*, p. 28

40 Submission no. 60, p. 6

41 *Committee Hansard*, pp. 23-24

entitlements.⁴² It suggested opportunities for administrative improvements regarding retirement travel entitlements including:

- providing retired parliamentarians with timely, accurate and comprehensive information on their use of their entitlements;
- documenting administrative procedures that ensure adherence to any limits or restrictions on travel by retired parliamentarians and their spouses; and
- implementing effective procedures for the monitoring and enforcement of limits on retirement travel, and taking prompt recovery action where travel is not within entitlements.⁴³

2.55 On 27 September 2001, the Prime Minister announced that, henceforth, DOFA would table separate six monthly statements of Life Gold Pass expenditure (including expenditure by former Governors General and former Prime Ministers) in conjunction with the standard statement of parliamentarians' expenditures. He noted that, previously, public disclosure of expenditure on former members' travel benefits had not occurred.⁴⁴

2.56 In evidence provided at the public hearing, the ANAO advised the Committee that the Bill, in conjunction with subsequent changes to administrative arrangements by DOFA was, in effect, an attempt to address the problems identified in its performance audit. It noted that DOFA had taken measures to improve the timeliness of its management reports to former members and emphasised the importance of this.⁴⁵

2.57 It stated however, that, in its view, the Bill still did not go far enough in relation to accountability in the use of travel entitlements because Life Gold Pass holders were still not required to certify that their use of the pass was within entitlement. Referring to the low level of certification found during its performance audit (only 56 per cent of former members had provided a certification response to DOFA on Life Gold Pass for 1999-2000), ANAO considered that a key problem was that pass holders were not legally obliged to provide certification.

2.58 The ANAO advised the Committee that a good internal control system should include an end-certification process that ensured 'that the travel had actually happened in accordance with the entitlement'.⁴⁶ In its view, a 'minimum level of control' would include a **requirement** that former members advise DOFA on the extent and nature of Life Gold Pass travel undertaken. It compared the existing voluntary certification process with other self-assessment processes and suggested that, given that the

42 Audit Report No. 5 2001-2002 *Parliamentarians' Entitlements: 1999-2000*

43 Submission no. 41, p. 2

44 *Parliamentary Entitlements*, Press release by the Prime Minister, the Hon John Howard, MP, 27 September 2001

45 *Committee Hansard*, pp. 3, 6

46 *Committee Hansard*, p. 6

certification process provided the key control to Life Gold Pass expenditure, the process should be changed if compliance was not being achieved. Referring to the 2001 audit report, Mr Bryan Boyd told the Committee:

The other thing we looked at more broadly in chapter 3 was whether certification was valuable. For example, the usual comparison with these things is taxation administration. When you have self-assessment type procedures, you often have post-assessment auditing and checking. In a way, it is a bit of a stick behind the carrot, just so people know there is a possibility that their certifications could be examined. It provides an added incentive to make sure people properly examine what they are signing off on.⁴⁷

2.59 On another matter, the ANAO noted that clause 33 of the Bill, that makes explicit the liability of individuals who have spent Commonwealth funds without entitlement to repay the expenditure, would assist DOFA in its recovery of amounts paid outside Life Gold Pass entitlements.⁴⁸

2.60 The AFMPA strongly supported transparency and reporting on use of the Life Gold Pass. It argued that it was unreasonable to assume that individuals would not be truthful when they provided certification and stated that there was no difference between former members and sitting members when it came to the standards of probity required regarding travel entitlements.⁴⁹

2.61 DOFA advised the Committee that it aimed for continual improvement in performance in relation to its corporate principles of flexibility, accountability, cost effectiveness, transparency and simplicity. It stated that, at times, this included suggesting options for changed or different processes to Government. It advised that it now produced monthly management reports for former Prime Ministers, that it 'pursued' certifications by former senators and members and that the new tabling requirements had introduced much more rigour with regard to transparency, accountability and certification. It confirmed that certification was the key check on the appropriate use of Life Gold Pass travel entitlements and the source of information for the six-monthly tabling statements on Life Gold Pass expenditure.⁵⁰

2.62 DOFA also explained that details on expenditure by spouses of Life Gold Pass travel entitlements were not included in the reports, in line with the exclusion from public reporting of information about use of travel entitlements by the spouses of sitting members.⁵¹

47 *Committee Hansard*, pp. 2-3, 6

48 Submission no. 41, p. 2

49 *Committee Hansard*, pp. 21-22

50 *Committee Hansard*, p. 8

51 *Committee Hansard*, p. 11

Scheduled transport services – Comcar and related matters

2.63 Section 4 in Part 1 of the Bill contains a definition of a domestic return trip. The definition includes the requirement that the travel occur ‘on a scheduled transport service or on a combination of scheduled transport services’. The Explanatory Memorandum states that a ‘scheduled transport service’ is taken to mean ‘any regular timetabled transport whether metropolitan, intrastate or interstate’.⁵² In this sense, Comcar and similar services appear not to be covered by the entitlements. The Bill therefore provides a legislative basis for DOFA’s withdrawal from 1 July 2002 of entitlement to Comcar use by Life Gold Pass holders.

2.64 In a statement on the decision by DOFA to withdraw access to Comcar and similar services for Life Gold Pass holders from 1 July 2002, a spokesman for the Minister noted that former members could submit to the Remuneration Tribunal that the entitlement be provided under a determination.⁵³

Summary of views

2.65 The ANAO queried the legality of Comcar use by Life Gold Pass entitlees in its 2001 audit of parliamentary entitlements. In its submission to this inquiry, the ANAO also noted the definitions referred to above and concluded that the Bill ‘would appear to exclude from Life Gold Passes access to travel services provided on demand such as COMCAR, hire car, self-drive vehicle and taxi transport’.⁵⁴

2.66 The AFMPA opposed the withdrawal of Life Gold Pass holder access to Comcar transport and advised the Committee that it would be making a submission on the matter. Representatives argued that the entitlement to Comcar and similar services should be retained as part of Life Gold Pass travel entitlements because, especially in the case of rural and remote areas, it allowed efficient and timely connections with scheduled transport services. They indicated their opposition to the proposed Bill if it ruled out a review of this matter.⁵⁵

2.67 The submission received from Senator Len Harris included the views of One Nation constituents on Life Gold Pass entitlements to Comcar and similar services. The submission supported abolition of Comcar entitlements for former members and noted that ‘last year this perk cost taxpayers \$200,000’.⁵⁶

52 Explanatory Memorandum, p. 3

53 Bills Digest, p. 4

54 Submission no. 41, p. 3

55 *Committee Hansard*, pp. 19, 25

56 Submission no. 60, p. 4

Disqualification provisions – corruption offence conviction

2.68 Part 6 of the Bill comprises disqualification provisions for forfeiture of Life Gold Pass entitlements in the case of former members (and former parliamentarians who qualify for severance travel benefits) convicted of a ‘corruption offence’, as defined in Section 2 of the *Crimes (Superannuation Benefits) Act 1989*. Forfeiture of entitlements is proposed to be automatically linked to forfeiture of employer superannuation contributions. This occurs when, as prescribed in section 7 of the above Act, on conviction of a former member of a ‘corruption offence’, an order taken out by the Director of Public Prosecutions comes into effect.

2.69 The Special Minister of State announced the Government’s intention to legislate to correct the anomaly between the *Crimes (Superannuation Benefits) Act 1989* and the Life Gold Pass arrangements on 11 June 2002. The Bill proposes that the disqualification provisions apply from that date. That is, if a person who has qualified for a Life Gold Pass is subject to a superannuation order that is issued on or after 11 June 2002, he or she will not receive a travel benefit after commencement of the Act. The Explanatory Memorandum notes that ‘recovery provisions will not apply for travel undertaken prior to Royal Assent’.⁵⁷

Summary of views

2.70 The AFMPA supported the extension of the principle relating to the forfeiture of superannuation entitlements for a person convicted of a corruption offence, to the Life Gold Pass travel entitlements.⁵⁸

57 Explanatory Memorandum, pp. 8-9

58 *Committee Hansard*, p. 22

Chapter 3

Conclusions and recommendations

Standardising and limiting the entitlements

3.1 The Committee supports the objective of the Bill in ensuring that the allowances available to former members reflect a legitimate level of travel consistent with the duties expected of former Prime Ministers and of former members. It considers that the entitlement to unlimited access to domestic travel at public expense by former Prime Ministers and other former members is not consistent with community standards. It therefore supports, in principle, the main thrust of the Bill to standardise Life Gold Pass travel entitlements and enhance the integrity of the scheme, to apply limits to those entitlements that have previously been uncapped and to more clearly specify the conditions and guidelines underlying the entitlements. It considers that the Bill will assist prevent misuse of the entitlements and will go some way towards channelling use of the entitlements towards legitimate purposes, in particular, public service.

3.2 In light of the evidence, however, it considers, that further changes to the Life Gold Pass travel entitlements are desirable.

3.3 It considers that the arguments around equity that compare the total remuneration available to sitting and retiring members and other Australians have merit. It accepts that the Life Gold Pass was established when the circumstances and prospects for sitting and retiring members were fundamentally different and it considers that the original reasons for establishing the travel entitlements no longer apply.

3.4 It acknowledges that many pass holders use their entitlement to continue to provide valuable and sought-after service to the community. However, it agrees with the view that those providing ‘pro bono’ work, or the organisations to which the service is provided, should fund (either fully or partly) the costs of any required travel, rather than maintaining a taxpayer-funded ongoing entitlement.

3.5 It understands that, in other Commonwealth countries, several parliaments make provision for benefits for former parliamentarians to ease the transition back to non-parliamentary life. However, it understands that financially uncapped benefits are not the norm. Instead, where benefits are available to former members of Commonwealth countries, they are in the form of specific financial payments based on years of service, such as a relocation allowance, a one-off severance payment or a gratuity linked to the level of salary formerly received by members.¹

1 *Commonwealth Parliamentary Salaries and Allowances 2000-2001*, Commonwealth Parliamentary Association, London

3.6 The Committee understands that, in New Zealand, some travel entitlements similar to Life Gold Pass entitlements apply but that these are being phased out for all retiring members, with the exception of former Prime Ministers. It understands that former Prime Ministers retain both domestic and international travel privileges ‘on the same basis as a current Member of Parliament and for life’.² Such travel is funded by the Executive and not by the Parliament.

3.7 For other New Zealand members, only those who first became members of the New Zealand Parliament before the 1999 General Election and who continue to retain membership of the Commonwealth Parliamentary Association, are entitled to **rebates** once they cease to be members. The rebate is equivalent to a percentage of the economy class fare for up to 12 domestic return trips undertaken for non-commercial purposes, calculated according to the former member’s length of service. The rebate is also available to the former member’s spouse.³

3.8 The Committee has carefully considered the evidence put to it on the relative salaries of members in Australia and other countries, and on work value studies in relation to remuneration for parliamentarians. It notes that recognised work value methodologies clearly indicate that neither state nor federal parliamentarians in Australia receive remuneration equivalent to their levels of responsibility. In this regard, it considers that the argument by the Association of Former Members of Parliament of Australia (AFMPA) that the travel entitlements are akin to ‘postponed benefits’ has merit. It also notes the action taken by the W.A. Salaries and Allowances Tribunal in 1986 and 1999. On both occasions, the Tribunal increased the salaries of State parliamentarians in return for, first, reducing and then, phasing out altogether, retirement travel entitlements.

3.9 The Committee concludes that, as a specific entitlement, the Life Gold Pass travel entitlements appear to be overly generous. It considers that, if the entitlements are intended to compensate for under-remuneration during the course of a parliamentary career, a sounder approach, and one that is more consistent with community standards, might be to re-examine the salaries and allowances of sitting parliamentarians relative to other professions. It considers that an appropriate body to undertake such a re-examination would be an established and independent body such as the Remuneration Tribunal. It envisages that such a review might consider a range of options including:

- considerably reducing travel entitlements and making them available to certain persons, such as former Prime Ministers, only; or
- introducing more flexibility into the entitlements to allow former members to conclude Committee service or other unfinished business arising from their former offices, or to allow Members-elect to prepare themselves for office.

2 Section 2, Clauses 2.1 - 2.6, pp. 14 – 22, New Zealand Parliament: Handbook of Members’ Services, July 2002

3 Clause 10.9, pp. 71-72, New Zealand Parliament: Handbook of Members’ Services, July 2002

3.10 The Committee notes that the Senate Select Committee on Superannuation and Financial Services has recently recommended that, ‘in order to achieve a cohesive and consistent approach, the issue of parliamentary superannuation be considered by the Remuneration Tribunal as part of a consolidated package comprising salaries, superannuation and allowances’.⁴

3.11 It considers that re-examination of the Life Gold Pass entitlements could consider other recent relevant negotiations and agreements concerning remuneration, for example, the total remuneration package procedures recently adopted for all New South Wales Government Senior Executive Officers, as noted by the Senate Select Committee on Superannuation and Financial Services.⁵

3.12 The Committee acknowledges that the re-examination it proposes may take some time. It therefore makes a number of further recommendations for amendments to the proposed Bill that might be made in the interim.

Definition of spouse

3.13 The Committee notes the widespread opposition to the proposed definition of spouse in Clause 4, Part 1 of the Bill. The Committee considers that the definition of spouse is too limited and should be broadened to reflect current mores. The Committee also notes that, while in accord with the definition applied by the Remuneration Tribunal, the definition is inconsistent with that in the *Parliamentary Entitlements Act 1990*. It considers that consistency should be pursued in definitions applying across related legislation, wherever possible, and that it would therefore be appropriate for the definition in the proposed Bill to be consistent with that in the *Parliamentary Entitlements Act 1990*. The financial implications of extending the definition can be expected to be minimal.

3.14 The Committee **recommends** that the definition of spouse be amended so as to be consistent with the definition applying in the *Parliamentary Entitlements Act 1990*. That is, that spouse, in relation to a member, ‘include[s] a person who is living with the member as the spouse of the member on a genuine domestic basis although not legally married to the member’.

Purpose of travel – definition of commerciality

3.15 The Committee considered the merits of classifying travel undertaken using the Life Gold Pass. It discussed whether there was scope for exclusion of additional types of travel from the Life Gold Pass entitlement.

4 Report on the provisions of the Parliamentary (Choice of Superannuation) Bill 2001, Senate Select Committee on Superannuation and Financial Services, August 2001, p. 21

5 Report on the provisions of the Parliamentary (Choice of Superannuation) Bill 2001, Senate Select Committee on Superannuation and Financial Services, August 2001, p. 14

3.16 Senator Murray suggested that former members' claims for Life Gold Pass travel might be improved if they were based on a classification system. Senator Murray said:

In other words, if you were claiming because you were doing charitable work, you would claim under that section; if you were claiming to attend official functions, like the centenary celebrations where you are invited in your former capacity, you would claim under official functions; and if you were just claiming it as a perk because you were travelling somewhere else under the entitlements, you would claim under that. If the validity of your case rests on the fact that you do good works and being helped with that is in the public interest, really, if you can substantiate that, it improves your case.⁶

3.17 The Committee concludes that travel using the Life Gold Pass should be confined, for all intents and purposes, to the continued provision of service to the Australian community. It considers that the Department of Finance and Administration (DOFA) should pursue initiatives to ensure greater transparency and more public reporting in relation to Life Gold Pass travel expenditure to ensure that travel claims are legitimate and appropriate and are seen to be so. It considers that this would benefit both former members in better justifying the legitimacy of travel claims, and the public, in terms of improved understanding of the reasons for expenditure on Life Gold Pass travel.

Retrospectivity

3.18 The Committee considered the issue of retrospectivity in relation to the proposals in the Bill. It noted the views of the AFMPA that retrospectivity constituted a breach of former members' 'contracts at law' and the advice from DOFA that the financial impact of the proposed Bill was likely to be limited.⁷ It also considered the decision by the W.A. Salaries and Allowances Tribunal not to reduce existing benefits to those already in receipt of them, in the context of its decision to phase out retirement travel benefits for qualifying former State members of parliament.

3.19 On balance, the Committee concludes that the limits on Life Gold Pass travel proposed in the Bill are reasonable and should, as proposed in the Bill, also apply to former members who qualified for the Life Gold Pass before 1994, their spouses and the widows/widowers of former members who qualified before 1994.

6 Committee Hansard, p. 23

7 The Committee notes that a number of witnesses and submitters were opposed to retrospectivity, including members of the Association of Former Members of Parliament of Australia (AFMPA), the W.A. Salaries and Allowances Tribunal, Mr Brian Moore and the Hon Duncan Kerr, Member for Denison

Certification and accountability

3.20 The Committee notes the recent changes to administrative arrangements that have resulted in improvements to the timeliness of management reports provided to former members to enable them to more easily and efficiently certify their use of Life Gold Pass entitlements.

3.21 It supports the Bill's clarification of certain Life Gold Pass arrangements including on the definitions of a return trip and how to treat stopovers. It also strongly supports Clause 33 and other measures in the Bill that provide for the recovery of expenses if the entitlement is misused.

3.22 However, it is strongly of the view that the entitlements should be subject to the most rigorous certification and accountability possible and it does not consider that this is likely to be achieved under the present arrangements.

3.23 In seeking a response from DOFA to the Australian National Audit Office's criticism in its 2001 audit report of its administration of the Life Gold Pass, the Committee notes DOFA's commitment to continual improvement in its administrative processes in accordance with key corporate principles. It considers, however, that more could be done to improve the level of transparency and accountability of the entitlements, in the face of public criticism. It encourages DOFA to review its administrative arrangements for further improvements, in particular, in relation to possible administrative efficiencies concerning the certification process, and the timeliness and comprehensiveness of reporting on the entitlements.

3.24 As noted above, it considers that Life Gold Pass travel should be confined to the provision of public service and therefore recommends that the provisions of the Bill be amended to better define the type of travel that might be undertaken and what constitutes a commercial purpose.

3.25 It also questions the possibility of achieving compliance under the existing voluntary certification arrangements and considers that Life Gold Pass holders should be required to certify that their use of travel entitlements was within entitlements. The Committee **recommends** that consideration be given to the following two alternatives:

- the provision of rebates, rather than prior authorisation, for travel expenses incurred by Life Gold Pass holders in the course of legitimate business, that is, public service; or
- a requirement that certification be mandatory, not voluntary.

3.26 The Committee also **recommends** that the information provided to former members about Life Gold Pass travel entitlements and the conditions and guidelines attached to its use be reviewed for accuracy and comprehensiveness. It further **recommends** that procedures for monitoring use of the entitlements, including certification procedures, be reviewed with a view to obtaining faster and more accurate certification, and to allow prompt action to recover expenses where travel appears not to have been within entitlements.

3.27 It considers that there must be the utmost transparency regarding use of the entitlements to ensure they are not misused. It understands that it is only when this is the case that the public will have confidence that the entitlements are being used for legitimate purposes. It considers that there should be regular and frequent reporting concerning use of the entitlements and that the results of actions taken to recover expenses misused should also be reported. It **recommends** further and ongoing review of administrative arrangements to ensure that all Life Gold Pass expenditure is captured in the monitoring and reporting arrangements. The Committee does not support the non-reporting of spouse travel and **recommends** that, while an entitlement for spouses remains under the Life Gold Pass, spouse travel be separately reported.

Scheduled transport services – Comcar and related matters

3.28 The Committee considered the views of submitters and the evidence put to it concerning this matter. It concluded that the proposal to limit Life Gold Pass travel to ‘scheduled transport services’ was reasonable and in keeping with the overall thrust of the Bill to contain the costs of Life Gold Pass travel. It noted that, as indicated by the spokesman for the Minister for Finance, the Bill does not preclude former members from making a submission on the matter to the Remuneration Tribunal.

Disqualification provisions – corruption offence conviction

3.29 The disqualification provisions attracted virtually no comment in submissions and in evidence given at the public hearing into the Bill. The Committee is in full agreement with Part 6 of the Bill. It fully supports the Bill’s correction of the previously anomalous situation by which persons who had qualified for a Life Gold Pass but had been convicted of a ‘corruption offence’ would lose their right to employer superannuation contributions but would retain their right to travel entitlements under the Life Gold Pass.

The remuneration and entitlements equation

3.30 The Committee is aware that work value studies undertaken for both federal and state members of parliament in Australia, and comparisons with the situation internationally, suggest that members of parliament do not receive high levels of remuneration relative to other professions or to their counterparts in other parliaments. It also appears that some of the public commentary has considered the Life Gold Pass entitlements in isolation from parliamentarians’ remuneration as a whole. The Committee concludes that entitlements cannot be considered in isolation. Rather, it takes the view that an holistic approach to parliamentarians’ remuneration is needed. Any examination needs to be understood in this context.

Recommendation

3.31 The Committee recommends that the Members of Parliament (Life Gold Pass) Bill 2002 be agreed to, subject to the amendments recommended in this report.

Senator Brett Mason

Chair

**ADDITIONAL COMMENTS BY SENATOR
ANDREW MURRAY: AUSTRALIAN
DEMOCRATS**

Members of Parliament (Life Gold Pass) Bill 2002

Additional Comments by Senator Andrew Murray: Australian Democrats

September 2002

The *Members of Parliament (Life Gold Pass) Bill 2002* is an improvement on the current retirement travel entitlements system for federal parliamentarians and their spouses. It will be improved further if the amendments proposed by the Committee are accepted.

However, the Bill is built on a premise and a practice that is fundamentally wrong. There is no justification for retirement travel benefits being provided to former parliamentarians and their spouses or partners.

The introduction of this Bill provides an opportunity to end retirement travel entitlements and thus address one of the most inequitable aspects of the remuneration package available to members of parliament.

Over time, the Australian Democrats, along with other Senators and Members, have called for a number of major changes to parliamentarians' entitlements. These have included calling for a reduction in parliamentarians' superannuation to more closely match community standards, and the cessation of parliamentarians' retirement travel benefits.

The Senate has consistently expressed reluctance to take a policy position on these matters, claiming that these are the province of the Remuneration Tribunal.¹

There are essentially three categories of entitlements afforded to Members and Senators. These are:

- their 'salary package'
- what they need to do their job
- their 'retirement package'.

The first includes matters such as salary and fringe benefits (car and other benefits). The second includes electorate allowances, office expenses, and staff allocations.² The third includes superannuation and retirement travel benefits, including entitlements available under the Life Gold Pass.

¹ For instance, the Hansard debate of the 13th March 2002 – see Senator Murray and others.

² Note the ANAO are presently auditing the staffing for Senators and Members.

There has long been a great public clamour for parliamentarians' entitlements to more closely match community expectations and standards. This has been a key feature of the inquiry into the proposed Bill, with submitters overwhelmingly opposed to travel entitlements as 'perks' that have no place in modern Australia.

The Australian Democrats agree that it is inequitable that such entitlements are available to a privileged few.

The entitlements are also out of step with benefits available to Australian government officials and to former members of parliament in other countries.

The Australian National Audit Office advised the Committee that entitlements similar to the Life Gold Pass retirement travel benefits had never been available to public servants either past or present. They confirmed that retirement benefits for bureaucrats were comprised solely of superannuation.³ The Department of Finance and Administration told the Committee that it understood that Life Gold Pass entitlements were 'ahead of the field' with regard to retirement benefits available to former members of parliament internationally.⁴

Given these precedents within the public sector, those who support the continuation of these perks need to justify their retention. Based on the evidence before the Committee, I continue to judge their defence of these entitlements as weak and unconvincing.

Many submissions referred to the generous superannuation benefits already received by former members of parliament, arguing that these were also excessive and out of step with community standards. Additional benefits such as the Life Gold Pass travel entitlements were considered completely unjustified.

I agree with submitters that there is no justification for the existing post-retirement travel entitlements. I note that, (apparently apart from retired members of some private sector air or rail corporations), equivalent perks are simply not a feature of normal retirement. The Australian Democrats consider post-parliamentary travel benefits a justifiable source of public resentment, and consider that the Life Gold Pass, in particular, is an indulgent unjustified waste of taxpayers' money.

We do not accept that retirement travel entitlements are necessary for former members, even those who wish to continue to provide public service or perform official duties. Such public service or official duties, if part of the function of Government, should be funded as such and not slipped through via a perks regime.

There should be one exception. Former Prime Ministers do have justifiable official engagements post-retirement and continued travel entitlements for them are

3 Committee Hansard, pp. 4-5

4 *Committee Hansard*, p. 11

appropriate. Their expenses should however be funded as an Executive cost, and not as a Parliamentarian's benefit.

For other Members of Parliament, such entitlements are simply an indulgence that is unwarranted.

The argument that the continuation of these retirement travel benefits is necessary to fund pro-bono, community or charity work is self-serving. Why is it acceptable for a former parliamentarian or spouse to select his or her own worthy cause on unknown criteria, to be funded at public cost?

Frankly, either the organisations themselves must fund such travel, or Government must decide in the public interest to make grants to charities for such services. One of the good principles followed by both this Coalition Government and the previous Labor Government is that hidden subsidies should be transparent.

In summary, the retirement package must be significantly reduced in scope. Whether there would need to be an appropriate compensation as a result, to at least retain parity, may need consideration, but if retrospectivity is avoided the necessity for that mostly falls away. Cessation should only apply from the next new Parliament commencement date, to avoid the difficulties of retrospectivity.

Although I have views on how the three entitlements categories mentioned above should be reconfigured, here is not the place to advocate them or to put them in detail. The context, however, can be laid out.

As for any employee, the salary package of a parliamentarian should be assessed, first, in terms of the work a parliamentarian does ('work value'), and, second, in terms of each member's specific personal responsibilities.

Other factors bear consideration. A few come to mind. There is risk - for instance, the risk of not getting re-elected, or the risk of having greater difficulties in securing employment post-politics. There are community standards and expectations, and how to assess or determine them. In assessing an appropriate salary package, what are the community standards and expectations? Then there is comparative analysis - should entitlements be affected by international or federal benchmarking?

It does seem certain that the community will not judge the appropriateness of a parliamentarian's salary package in isolation from other entitlements. The three categories outlined above do intertwine in the public mind. The public (and many parliamentarians) do seem to have the view that when the present superannuation entitlements are taken into account, overall, parliamentarians are well paid. This is probably true for long serving backbench parliamentarians, but it is less the case for parliamentarians serving a shorter term.

The public seem less convinced that members of the Executive are paid appropriately, taking the Prime Minister and the Treasurer as obvious examples. It is striking that the salaries of ministers are far below the salaries of senior executives in the private sector, (and even some in the public sector). Service as a Minister of the Crown is a

great privilege and honour, and one expects it to be accompanied by a lower salary package than commensurate work in the private sector. However, if the objective of parliamentary entitlements is to reflect community standards, the point must be made that ministerial salaries are way out of touch with salaries paid to executives with far less responsibility than ministers.

This inquiry provided support for this view. The Department of Finance and Administration advised the Committee that federal members' salaries were lower than might be expected. It referred to Parliament's rejection of the recommendation by the Remuneration Tribunal to increase the salaries of federal members and the consequent introduction of the Parliamentary Remuneration and Allowances Act.⁵

Mr Brian Moore referred to the results of work value studies undertaken for both federal and state members of parliament that found that rates of remuneration for members of parliament were not equivalent to their respective levels of responsibility.⁶

Mr Moore and the W.A. Salaries and Allowances Tribunal advised the Committee that that body had undertaken a review of the overall remuneration of state members of parliament in that state. They advised that the Tribunal had taken the view that it was more appropriate for a person to be remunerated appropriately while giving service, rather than afterwards. It had, therefore, on the basis of work value studies, awarded a salary increase to state members in return for reducing and, finally, phasing out the retirement travel benefits to which former members had previously been entitled.⁷

Some submitters, including the Association of Former Members of Parliament, argued that retirement travel benefits are legitimate compensation for the lower rates of salary that sitting members receive while in office, and for the difficulties and stresses associated with being a member of parliament.

The Australian Democrats consider that, instead of providing for compensation post service, members of parliament should be paid an appropriate salary for the work they do while in office. Except for transitional arrangements on leaving office, retirement benefits should be confined to superannuation at levels in accordance with community standards.

The Australian Democrats oppose the retention of retirement travel benefits for former members of Parliament under the Life Gold Pass or any other arrangement, on the grounds that such entitlements are not justifiable and are out of step with community standards.

We support the Committee's proposed amendments as they improve the Bill (which as we have said earlier is itself an improvement on the existing scheme). Nevertheless,

5 *Committee Hansard*, p. 11

6 *Committee Hansard*, p. 26

7 *Committee Hansard*, p. 27

the scheme should be ended. We will move an amendment for the cessation of former parliamentarians travel entitlements, and will consider other amendments as appropriate.

The introduction of this Bill provides an opportunity to address more than the excessively generous retirement package available to some former members through the Life Gold Pass. I agree with the Committee that it also provides an opportunity for an holistic re-examination of parliamentarians' salary packages and entitlements on an objective basis. Crucially, this should provide an opportunity to bring superannuation entitlements into line with community standards.

Senator Andrew Murray

DISSENTING REPORT

ONE NATION

ONE NATION

DISSENTING REPORT

Members of Parliament (Life Gold Pass Bill) 2002

16 September 2002

1. Introduction

The Members of Parliament (Life Gold Pass Bill) 2002 does not go far enough in curtailing former MP's retirement benefits, which last year amounted to more than \$2 million.¹

Feedback from constituents, including individuals and organisations making submissions to the Committee, indicates that there is strong antagonism and opposition to Life Gold Passes. The majority of people making submissions to the Committee indicated that they wanted all Life Gold Pass entitlements abolished. Regrettably, the Bill only limits entitlements, it does not abolish them.

One Nation recommends the immediate abolition of the Life Gold Pass for all former members of parliament, and their spouses, including former Prime Ministers. There is no valid reason for taxpayers to fund the travel costs of retired MP's and their family members after service to the Australian public has ceased.

While One Nation is disappointed that the Committee has not sought to abolish the Gold Pass all together, the Party supports any measures which will make the system more transparent and accountable.

¹ ANAO Report into Parliamentarian's Entitlements 1999-2000.

Response to Recommendations:

- One Nation concurs with the view that Life Gold Pass travel entitlements, presently available to the spouses of eligible pass holders and to the widows/widowers of existing eligible pass holders appear to be too generous. One Nation believes that these provisions should be retrospectively abolished. Abolition of Life Gold Pass entitlements should apply to all who are currently benefiting from them. Members of Parliament have entered into a contract with their constituents. When a person votes in an election by selecting their preferred candidate, they are entering into a contract with that person, not with the Parliament. The people of Australia employ the members of Parliament. If the overwhelming public view is that the contract should be changed (which appears to be the case), then retrospectivity should apply.
- One Nation notes the Committee's recommendation that Gold Pass holders should be required to certify that their use of travel entitlements was within entitlements. It is an appalling indictment upon the principles of open government, transparency and accountability that certification is only voluntary. In the absence of the Gold Pass being abolished in totality, One Nation supports the provision of rebates, rather than prior authorisation, for travel expenses incurred by Gold Pass holders in the course of legitimate business that is public service.
- One Nation supports any review of conditions and guidelines that are issued for Gold Pass travellers.
- One Nation supports a review of monitoring procedures including certification procedures, particularly those allowing prompt action to recover expenses where travel appears not to have been within entitlements.
- One Nation supports the recommendation for a further and ongoing review of administrative arrangements, ensuring that all Life Gold Pass expenditure is captured in the monitoring and reporting arrangements.
- One Nation supports the recommendation that spouses travel entitlements be separately reported.
- One Nation believes that retrospectivity should be applied so as to remove entitlements of those accessing the Gold Pass.

Concluding Remarks

The Committee report indicates that politicians are not willing to bring MPs' entitlements into line with community standards. It appears that the approach to entitlements is defer, deflect and deny. Defer any real changes that are needed. Deflect any criticisms of politician's ongoing retirement entitlements and deny that there is any real need to abolish the Life Gold Pass, despite the clearly expressed wishes of the people.

The Life Gold Pass is yet another instance where political rhetoric does not compare to the power, perks, pork-barrelling and back room deals that are the order of the day.

Lip service is given to political reforms which would provide accountability, but no meaningful changes are made.

Politicians must show accountability by cleaning their own house. Wasteful and unnecessary entitlements, such as the Life Gold Pass must be abolished. Politicians, the servants of the people, must be subjected to the same rules as the people that they purport to lead. No special treatment, no special favours.

Senator Len Harris

One Nation Senator for Queensland

APPENDIX 1

LIST OF SUBMISSIONS

Submission no.	Organisation/Individual
1	Mr & Mrs John & Pearl Galsworthy
2	Mr Paul Thurlow
3	Mr & Mrs David & Barbara McVeagh
4	Ms Joyce Harnby
5	Mr Clive Millen
6	Mr Ian Sutherland
7	Mr Steve Turner
8	Mr David Hopper CFP Dip FP
9	Mr & Mrs J.M. Petty
10	Mr Allan N. Petty
11	Mr A C Ernst
12	Ms Margaret Ranford
13	Mrs M Williams
14	Mr Peter Andren MP
15	Mr John Edge
16	Mr David Searles
17	Mr & Mrs JF Golding
18	Mr Richard Gorski
19	Mr Harry Evans
20	Mr and Mrs D Bourne
21	The Hon Duncan Kerr MP
22	Mr Harry Evans (supplementary)
23	Ms Margaret Ranford
24	Mr Ken Lawson
25	Mrs Anne Speed
26	Ms Pamela Long
27	Member for Riverina
28	Mr J Stoner
29	Dr Veronica Griffin Ph.D
30	Mrs W Collins
31	Mr Rob Williams
32	Ms F L Sheppee
33	Mr & Mrs B Richards
34	Mr Hugh Wilson
35	Mr N A Harman
36	Mr & Mrs D Gelmi
37	Mr David Jackson
38	Maritime Union Members
39	Mr Bruce Waterhouse
40	Mrs C Roberts
41	Australian National Audit Office
42	Mr Bert Spencer

43	Mr John Weil
44	W.A. Salaries and Allowances Tribunal
45	Ms V Staddon
46	Mr Greg Kessell
47	Mr Joe Lopez
48	Mr Maurice Massie QPM, LFAIES
49	Mr Brian Moore
50	Mr John Cleary
51	Mr & Mrs N Sheppee
52	Ms Barbara Dennis
53	Ms Jennie Holden
54	Mr Herb Bonney
55	Mr Harry Grills
56	Mr C J Candem
57	Mr John Wisby
58	Mr J John
59	Association of Former Members of the Parliament of Australia
60	Senator Len Harris
61	Mrs M Luders
62	Mr/Ms H C Trotman
63	Ms Matilda Bawden
64	Ms Kaye Tabe
65	Mr Stan Knight
66	Mr John Kelmar

APPENDIX 2

PUBLIC HEARING

Public hearing: Friday, 23 August 2002, Canberra

Australian National Audit Office

Warren Cochrane, Group Executive Director, Performance Audit Services

Mr Colin Cronin, Executive Director, Performance Audit Services

Mr Brian Boyd, Senior Director, Performance Audit Services Group

Department of Finance and Administration

Ms Jan Mason, General Manager, Ministerial and Parliamentary Services

Mr John Gavin, Special Advisor, Ministerial and Parliamentary Services

Ms Deborah Fulton, Entitlements Policy, Ministerial & Parliamentary Services

Association of Former Members of Parliament of Australia

Mr Tony Lamb, President

Hon. Kathy Sullivan, Committee Member

Mr Manfred Cross, Committee Member

W.A. Salaries and Allowances Tribunal

Mr Ray Turner, Chairman

Mr Jeff Mews, Member

Mr Brian Moore

Retired former Executive Officer, W.A. Salaries and Allowances Tribunal