



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

**Governance of Australian Government
Superannuation Schemes Bill 2011**

Second Reading

SPEECH

Wednesday, 15 June 2011

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

<p>Date Wednesday, 15 June 2011 Page 6074 Questioner Speaker Mr ROBERT</p>	<p>Source House Proof No Responder Question No.</p>
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(Fadden) (NaN.NaN pm)

Mr ROBERT (Fadden) (10:57): Twelve months ago, the now Prime Minister told the nation that the government had lost its way and pledged to get the government back on track and to deal with the range of challenges before it. As an election came and went, a new paradigm arose from the ashes of what Labor had left behind and we were erroneously led to believe that things may well be different. One of the areas of difference was about engagement—engagement-led policies. A number of weeks ago the opposition approached the government with respect to this range of bills to talk about engagement and how we would sit down with the government and have a discussion. To the minister's credit, we did go through a range of issues. Minister Snowden was there and representatives of the finance minister were there, and we outlined some issues and sought some information back. We asked a range of questions. Two weeks have passed and what have we heard from the minister's office? Nothing. Where is the information we requested, which the minister promised we would be provided? Nowhere. Putting aside the fact that I cannot take the minister at his word, we sought to engage and have a responsible discussion in order to agree on a position in the interests of the nation, and this government could not even be bothered to get back in contact with the opposition for further discussion. If that is the game the government want to play, if that is their concept of a new paradigm, if that is their idea of engagement-led policy then there is no doubt they are facing a demise, as the front pages of the newspapers currently point out. That brings us to this bill, where the opposition has sought to engage and to negotiate in good faith, and the government has not even bothered to respond.

We are told these bills will merge the existing trustees for the Commonwealth civilian and military superannuation schemes into a single trustee body, the Commonwealth Superannuation Corporation, or CSC. They will establish ComSuper as a statutory agency with a CEO and staff, and a function of ComSuper of course will be to provide administrative services to the CSC. The CEO will be appointed by the Minister for Finance and Deregulation in consultation with the Minister for Defence. The CSC will be trustee for existing Commonwealth superannuation funds, including the Commonwealth Superannuation

Scheme, the CSS; the Public Sector Superannuation Scheme, the PSS; the Public Sector Superannuation Accumulation Plan; the Military Superannuation Benefits Scheme; the Defence Force Retirement and Death Benefits Scheme; and the Defence Force Retirement Benefits Scheme.

The CSC board will consist of 11 members—an interesting choice for the number of board members—appointed by the Minister for Finance and Deregulation. It is here that the full magnitude of what this government is proposing rears its ugly head. Of these 11 members of the board, five will be chosen in consultation between the finance and defence ministers. Three will be nominated by the President of the ACTU, the Australian Council of Trade Unions, and they cannot be sacked; only the President of the ACTU can remove them, thereby emasculating the minister. Two members will be nominated by the Chief of the Defence Force. And there will be one independent chair. But it gets better, because a quorum is nine. Name me a single board in this country that has a quorum of nine out of 11, where three of those members—which could knock out a quorum—are from the ACTU, and the minister does not appoint and cannot remove them. So three people can knock out a quorum of a board sitting over Commonwealth funds. These are three people not chosen by the minister—that is, not chosen by an elected official. These are three people who cannot be removed by the minister, an elected official. Suddenly we will have a huge bulk of Commonwealth funds effectively controlled by unelected officials, and that is a statement of fact.

The bills also establish the Defence Force Case Assessment Panel. The panel will review any decision referred to it by the CSC relating to military matters such as death and disability pensions. The panel has been included in this version of the legislation, as opposed to the legislation the government first introduced in the last parliament, in response to concerns raised by stakeholders in the veteran and ADF community. Taken at face value, we agree with the establishment of such a panel. However, we are concerned that the CSC is not bound by any recommendations of that panel. It in effect can make it a toothless tiger when it comes to representing the interests of military personnel.

These bills were first introduced in a slightly different form on 4 February 2010 and were passed by the House. The coalition opposed them on 2 June, and of course the bills lapsed with the proroguing of parliament. The previous bills were amended in the House to slightly improve the board appointment process following a Senate committee inquiry. The changes included requiring consultation with the Minister for Defence on employing board appointments and requiring that at least one CDF nominated director be present where a reduced quorum, in some circumstances, is permissible and when issues to be discussed related only to military superannuation matters. Whilst the coalition supported these minor amendments, we continued to oppose the bills because of the government's fanatical desire to have ACTU representation.

When these bills were originally introduced—that is, in the last parliament—the Labor government had forgotten one thing. There was one tiny thing that they seemed to forget: to engage, to consult, to speak with the veteran and ex-service community, who would be impacted by it. That is not unusual in itself for this government. It revealed a complete ignorance as to what is important to the veteran and ex-service community. The Labor led Senate committee hearing into the bills largely whitewashed over the facts and the testimony given by key ex-service organisations, including the RSL and the Defence Force Welfare Association. Had the Labor government engaged with the veteran community, they would have quickly learnt that they would not tolerate the amalgamation of their super scheme with government civilian schemes if it meant that representation on the governing board was reduced or that the ACTU could effectively knock out a quorum of sittings. As it turned out, the veterans and ex-service organisations were right to question the legislation.

When these bills were introduced in the last parliament the Labor government did not just forget to talk to key stakeholders—namely, the veteran community; it forgot to engage with the coalition and has repeated the mistake once again. Last time, last year in eleventh-hour negotiations, when the Labor government realised it would be held accountable for its bad legislation, it finally decided to engage. This time it did not. And that is where the problem remains. The Labor government did not listen to concerns raised by the coalition or the ex-service organisations. They did not listen, but they caved in to the ACTU. I guess there is a requirement to pay back the tens of millions of dollars the trade union movement pumped into keeping this moribund Labor administration wobbly on at least one foot.

With regard to the current legislation before the House, it is like *deja vu* all over again: Labor not speaking

to the coalition; one meeting held, in good faith, and no more; no questions answered; no engagement; information being requested; information promised, nothing coming up; no subsequent meetings. And the fundamental problems with the bill remain from the last iteration. Suffice to say we strongly oppose the bills, not least of all because the coalition cannot, will not, support the dominant position given to the ACTU over both Public Service and military superannuation funds. We cannot and we will not support the ACTU being able to block quorums. We cannot and we will not support the ACTU not being appointed, or not being removable, by the minister. Further, we will seek to introduce amendments to this bill, which have now been circulated. I hope that the Independents and the Greens will combine with us to knock out the bad parts of the bill by supporting these amendments.

The disproportionate representation of the ACTU on the board is backed up by this rabble of a government saying that the ACTU are the employee representatives and that therefore they should have a seat at the table. No-one argues with the longstanding tradition of employee representatives having a seat at the table. The minister should be able to appoint whomever he wants. If the minister wishes to appoint people from the ACTU, the minister should have the power to do that. No-one is saying the minister should be stopped from appointing whomever he wants. Indeed, the minister could appoint seven from the ACTU if the minister so chose—the minister should have the power to do that. But the sheer idea that, as a kickback, the legislation says to the ACTU: 'Here are three positions for you and you also hold the power to block quorums if you want to,' is completely and utterly outrageous. The minister must have the power to appoint whomever he or she wants to the board, whomever he or she deems fit to be the employee representatives. That is fair and that is just and the opposition has no problem with that at all. But we will continue to oppose the idea of saying: 'ACTU, I know you represent only 14 per cent of the private sector and 41 per cent of the public sector, but you alone will be the employee representative. Forget the other 59 per cent who decided that the union movement, especially the CPSU, is completely irrelevant to their lives and what they do. Forget that as a statement of fact—we will still give you three plum positions.'

There are eleven members on the board; the minister should be able to appoint all of them. The idea that the minister cannot remove someone from the board, with that being delegated to someone—in this case, the president of the ACTU—makes a mockery of the concept of elected officials, accountable at the ballot box for their decisions, being able to hire and fire people on Commonwealth boards. Simply put, this bill gives excessive power to the ACTU with regard

to board appointments, termination of board members and quorum arrangements for board meetings. The minister and the minister alone should make the appointments and they should not be outsourced to their all-powerful backers, the ACTU.

The current legislation still contains provisions which make it unacceptable to the defence and veteran communities. Only 41 per cent of public servants are members of a union. Why should the 41 per cent of public servants who choose to join a union have 100 per cent of employee representation on the new board? How are the other 59 per cent of public servants, who are not members of a union, represented under the government model? In 2007, the Prime Minister said, 'I will be a Prime Minister for all Australians,' or was that the last Prime Minister? Surely that means the minister should appoint all the board members to represent all the constituents who are involved in the superannuation funds within ComSuper.

We have raised these concerns with the government, who are nevertheless pressing ahead with their current model. As was the case when this legislation was introduced in the last parliament, the Labor government has made it clear it is unwilling to engage on this legislation. The embedding of the unions in the legislation as a right seems to be an absolute and utter article of faith for this government. The government should come up with a governance model which is more representative of the diversity of backgrounds and perspectives of public sector employees. Indeed, the government should have engaged with the coalition —

Mr Snowden: You didn't want to.

Mr ROBERT: —and come back with responses to questions so that we could have reached an agreed position, Minister. In summary, the major issue with this bill remains the ACTU representation on the board. We will oppose today, we will oppose tomorrow and we will oppose the next day the privileged treatment of the union movement that occurs every day with this government. We will oppose it. Board members should be appointed by the Minister for Finance and Deregulation in consultation with the Minister for Defence. The minister alone should appoint them. There should not be privileged positions for the Labor faithful and the Labor mates.

A second issue is that the ACTU is currently able to nominate more directors than is the Chief of the Defence Force. The defence and veteran community believes that military representation on the CSC board should be at least equal to that of the ACTU or, more importantly, there should just be no ACTU at all. Thirdly, the minister cannot

dismiss an ACTU nominated director. It is outrageous that the government would put up a bill that says three members are from a privileged group and the government cannot get rid of them unless there is egregious behaviour—already extant legislation allows for dismissal in such a case—and only the President of the ACTU can get rid of them. Only an unelected official can get rid of them. It is unacceptable that the ACTU president, rather than the responsible minister, would have such power over appointments. The other five employer directors can be dismissed by the responsible minister but not the ACTU ones.

Given that a quorum of nine members is required for a board meeting and that three are ACTU directors—not appointed by the minister and not able to be removed by the minister—those three can prevent such a meeting from being held. That they can do so is simply and utterly outrageous. The bill cannot be supported in its current form. The opposition will oppose it. The opposition has circulated amendments in my name to make the bill far more acceptable to the veteran community and, indeed, to the Australian people.

(Lingiari) (NaN.NaN pm)

(Fadden) (NaN.NaN pm)