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From the Editor

TONY RUTHERFORD

His issue of the IPA Review marks the fiftieth anniversary of the Review's original publication—surely some kind of record for a 'think-tank'.

Reading the archive copies from 1947, one's initial reaction is that these are primarily historical documents, all more or less remote from current concerns. Post-war reconstruction, the industrial relations strife of the late 40s, the threat of bank nationalization—all these figure prominently.

In each case, however, the same care for the national interest, for freedom, and for prosperity—and a propensity to dissent—come through in the treatment of the issues.

Today's issues—as reflected in the pages of volume 50, number 1—are different, but the treatment reflects the same concerns.

Some issues, of course, would come as a very great surprise to a reader from the 40s.

Although theorizing about the effect of man-made carbon dioxide in the atmosphere, for instance, has been around for a century or so, the problem of 'greenhouse' would then have been at worst a very small and speculative cloud on the scientific horizon. Fifty years later it looms very large indeed—research into the mutual relationship between man and earth's atmosphere is now very big scientific business indeed. But the central question posed by 'greenhouse' for most of us is not one of science, but one of public policy. How do we make policy decisions which will be necessarily based on a discipline whose methods are more or less incomprehensible to virtually most of us?

There are no easy answers now to this question; and the relatively short history of the greenhouse scare perhaps leaves us less able to find answers. That history offers some clues, however. Perhaps the most important is that scientists are no less human in all the relevant ways than the rest of us: they have the same keen appreciation of power and of maximizing their own importance. The myth of the noble, disinterested boffin concerned only for the pure search for truth and knowledge is precisely that: a myth. Cui bono—who benefits?—is still not a bad maxim for the public policy sceptic; and scepticism is still not a bad starting point for matters as difficult as these.

The suspension of judgement is still useful, too. No doubt most citizens would be appalled if they were permitted to understand the basis on which the media constructed the shocking greenhouse scare stories of the late 80s. And still, despite very wide agreement that the worst of the greenhouse scenarios has now been at the very least postponed considerably, we are urged by the activists not to suspend judgement and action, not to wait and see.

One perhaps unexpected clue is that, in matters like this, a broad historical education is nearly as useful a tool as a scientific training. A sense of history is, after all, what enables non-scientists to distinguish weather from climate. As some of the more reasonable scientists have pointed out, climate variation is a very familiar phenomenon within relatively recent memory (but who now remembers the minor 'global cooling' scare of the 1970s?). Perhaps a passing acquaintance with the Vinland Saga, with Pepys's diaries, with Dickens' novels, could do as much for most concerned citizens as the second- or third-hand science retailed by the scare-mongers.

The 'Countdown to Kyoto' conference, held in Canberra last August, provided an invaluable antidote to much of the misinformation—scientific, political and economic—which characterizes the greenhouse debate. We are able to print here, in the Focus section of this issue, only a small selection from the conference papers, but even that sample is valuable.

Fifty years ago, we find no concern about the High Court—even though some of the problems which the Court has created for public policy have their origins well before that. The Court, for example, had a pronounced anti-federalist bent for much of its history. But nothing, perhaps, could have prepared the reader of 1947 for the hostility and controversy which now surround the Court. Perhaps the most astonishing feature of that controversy is the Court's insistence that it is effectively beyond criticism; it welcomes only 'constructive criticism', which appears, by definition, to be 'criticism' which supports its actions. This, in a democracy, is breathtaking. Two contributors in this issue offer incisive criticism of aspects of the Court's operations, and we hope to have more on this subject in future issues.

Industry policy, on the other hand, remains a constant—as always in Australian political economy.

The first-ever IPA Review ran a thoughtful article about 'Breton Woods and World Trade Revival', one which could hardly have represented...
the then received opinion on the subject. It carefully analysed the link between the decline of free world trade and the recent world war, and between free trade and prosperity: 'The justification of international trade on the largest scale is thus twofold—it aids the attainment of the maximum standards of life and it assists the cause of world peace'. While acknowledging that we could not '...do away overnight with tariff protection'—this is, after all, Victoria and 1947—the article argued strongly that Australia's narrow economic base meant that we had a particular interest in free trade. 'Australia's failure so far to ratify the Bretton Woods agreement,' it concluded, 'appears to reach the heights of folly, and indicates an unimaginative "little-Australia" approach to these great matters ... which is, to say the least, highly disturbing'.

In this case, we can only reflect on how little has changed. Given the decision on protection for the passenger motor vehicle industry, the latest episode of policy dereliction—the decision on textiles, clothing and footwear—was perhaps predictable, though no less excusable. At the same time, we now see numerous proposals or demands for 'industry policy', a phrase usually to be translated as direct or indirect subsidies. This matter is taken up by Winton Bates in these pages, and, again, it is one we will be taking up further in future issues.

The prescient and penetrating phrase from fifty years ago, however, is that referring to the 'little-Australia' attitude. Perhaps the most disheartening feature of the Howard Government is the way in which it has presided over the spread of a defensive, defeatist, protectionist and xenophobic mentality of almost epidemic proportions. As fifty years ago, this attitude should be at the centre of our policy concerns.

Now for Something Radical

OW that tax reform is on in earnest, it is time to discuss the most important reform of all—the elimination of company income tax. Although this may sound a bit radical, it is an idea whose time has come and which will not go away.

The simple fact is that, under the dividend imputation scheme that has prevailed in Australia since 1987, company tax does not raise a huge amount of money. Although $14 billion was raised in 1993-94 in company tax, according to research published recently by Neville Hathaway of the Melbourne Business School, about 45 per cent of it is rebated to shareholders and offset against income tax. Therefore, in net terms, company tax provided the Commonwealth with about $7.7 billion or about 7 per cent of its total tax take in 1994-95.

The company income tax also comes at an extremely high price. It is very expensive to collect—easily the most costly of all taxes. The compliance and administration cost alone in 1996-97 will come to around $4 billion.

It distorts business decisions, leading to loss of investment, jobs and income. More importantly, it wastes the energies of many of our best and brightest minds.

It acts as a significant disincentive to risk-taking and investment. The company tax that actually goes into the government's coffers comes either from

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Source: J. Johnson, J. Freebairn, J. Creedy, R. Scutella and S. Cowling, Tax Reform: Equity and Efficiency, Report No. 1, A Stocktake of Taxation in Australia series, Melbourne Institute, University of Melbourne, August 1997, Table 3.9. Full details of sources and the taxes measured are contained in the Table.
profits retained and reinvested in firms, or from investors who are unable to use franking credits (about half the franking credits are used). These investors are subject to double taxation—company tax plus personal tax, or capital gains tax—and confront a total tax rate pushing 80 per cent.

In short, company tax is not worth collecting.

Australian governments have in recent years attempted to reduce these costs, without much success. A few years ago, the Tax Office started a 'tax simplification' process. Although the Tax Office continues to brag about this process, most independent observers have written it off as a flop.

The problem is twofold. The Government is trying to squeeze more and more out of its existing tax bases, including company income tax. At the same time, the globalization of capital markets and companies, as well as technological change, is making it easier and necessary for firms to minimise their tax liabilities as well as all other costs.

The Tax Office is chasing every cent, almost irrespective of the cost. It is hounding firms like never before. Its budget is up 20 per cent and staffing levels are up 10 per cent on the level it agreed to five years ago.

This process—increasing cost, lower net tax receipts—will only continue. The logical solution is to face reality and eliminate company income taxation.

It will not leave a big hole in Mr Costello's budget. Much, if not all, of the revenue lost will be captured by other taxes. Capital gains tax and income tax will capture most of the revenue lost. Moreover, the elimination of company income taxation would undoubtedly increase company earnings and revenue from income and other taxes.

The taxation of profits paid to foreign investors is a complication, but this can be dealt with by increasing the withholding tax on dividends paid overseas.

The fact that many shares are owned by superannuation funds adds support to the elimination of company tax—by reducing the double taxation it would promote savings.

Eliminating company tax would certainly provide a boost to the corporate sector. It would get government out of the boardrooms and allow our best and brightest to concentrate on wealth creation rather than wealth protection.

The Psychology of the High Court: Call for the Valium

GREG CRAVEN

The High Court of Australia has been embroiled in controversy for some time now. How serious is it? Greg Craven explains that it may be very serious indeed.

SOMETHING decidedly odd has happened within Australia's second oldest sport, constitutional politics. Usually a majestic if bloody quadrille between State and federal politicians, occasionally enlivened by some more esoteric spat between executive and legislature, Australian constitutionalism has a new star. Blushing becomingly in the spotlight of constitutional controversy now stands the High Court itself. For the first time, at least in many years, more debate rages over the role and doings of the Court than over the actions of any of the constitutional litigants who come before it.

This is a position of prominence for which the Court, like any aspiring starlet, has had to work hard. Its decision in Mabo, right or wrong, certainly gave the Court an enormous boost as a household name. Far more dramatic in point of constitutional principle, however, has been the Court's discernment of 'implied rights' in the Constitution, an eureka discovery that has pleased left-libertarians as much as it would have amazed the Founding Fathers. Finally, last month's State tax decision saw the Court deal the States a fiscally crippling blow with all the absent-minded brutality of a runaway tram.

So the Court now holds centre stage, but this has been achieved at a cost. Politicians who would scarcely before even have heard of the Court now speak of it in tones previously reserved for their most loathed opponents. Otherwise timid academics take courage, and talk of the Court as a threat to democracy. The Court itself receives these criticisms with overt and quite unjudicial irritation. In the midst of this unprecedented anger, it is a fair question to ask—what on earth is going on?

The answer is that we are witnessing a basic change in judicial psychology, of a significance not equalled by anything in the last couple of centuries. Put crudely, the highest officers of our judiciary have decided to become politicians. Not party politicians—that would be too crude. Rather, the High Court has entered the far more subtle and important fields of social and cul-
tural politics, in which contexts some of its members undoubtedly wish to determine the future shape of our country.

Mabo is a good example of this. While critics of the decision are quite wrong to argue that it was constitutionally improper—the Court was, after all, merely deciding an issue of its own common law—Mabo certainly owed little or nothing to legal analysis. It proceeded rather upon a judicial conviction (at least arguably correct) that the tragic social consequences of Aboriginal dispossession would be best dealt with through the adoption of a regime of native title.

The case of implied rights is even clearer, and far more constitutionally troubling. Every sane constitutional lawyer knows that the implied rights purportedly discerned in the Constitution by the High Court are as bogus as a bad toupee. The simplest way of expressing this is that all implications necessarily are based upon intention, and that we know as a matter of absolute historic fact that the Founders never intended the subsistence of any of the rights which have from time to time been ventilated by members of the High Court. Again, the Court has invented these rights not because they are constitutionally plausible, but because it believes them to be socially desirable.

Even the Court’s time-honoured sport of dismembering the autonomy of the States may be viewed through this socio-political prism; though in this context, the virtue of novelty hardly can be claimed. The recent State tax decision merely represents another stage in that toruous process, begun in the Engineers’ case, whereby the Court has taken it upon itself the agreeable task of substantially de-federalizing Australia.

Thus, the High Court now implicitly asserts the right to mould the social dispositions of Australia on what it regards as the key issues of socio-cultural identity. This assertion is in turn based on two, highly contentious propositions.

The first is that it is constitutionally legitimate for the High Court to adopt such a role, particularly in the case of what amounts to judicial amendment of the Constitution. Naturally, this is not a topic which the Court or its (mainly academic) sympathizers are eager to address, for the simple reason that the slightest attachment to any concept of popular democracy must produce genuine revulsion in response to the suggestion that the Constitution should be amended by what are—in terms of their appointment—seven unelected creatures of the federal executive. This distaste can only deepen if one pauses to recall that the Constitution was itself adopted, and continues to be amendable, by the most democratic of processes.

The second, and nauseatingly self-congratulatory, limb of the judicial triumphalism of the High Court, is that its judges are precisely the sort of philosopher-kings to whom one would willingly entrust the social fate of the nation. Here, the Court’s supporters are fond of referring to the eminence of its judges, their lack of political passion, and their capacity to take a ‘long-term’ view of any conceivable issue.

There are a number of responses to this. The first is that no matter how clever a person is, this does not of itself confer democratic legitimacy: a usurper remains a usurper, be he ever so wise, and the alleged wisdom of the High Court’s decisions no more justifies the making of them than did Mussolini’s admirable train timetable successes morally justify his fascism. Secondly, and more practically, the claims of the Court to a serious policy capacity are almost side-splittingly funny. High Court judges are chosen not for their social wisdom, but for their technical legal capacity. Middle-aged, overwhelmingly middle-class and male, narrowly-educated, cloistered in legal privilege from an early age and largely devoid of administrative experience, it is difficult to imagine a group less experienced in matters of social policy, at least outside an enclosed convent.

Oddly enough, when these relatively obvious points are made to a Court which has trumpeted its dedication to a constitutional right of free speech, reaction seems to range from a pained silence to a barely suppressed outrage. Judges who scarcely can fail to be aware that the Court’s recent jurisprudence is highly contentious in the view of a large proportion of the Australian legal community, seem genuinely appalled when anyone has the temerity to question their conclusions. It was wigged myopia of this type which led to the truly hilarious exchange earlier this year between a miffed Sir Gerard Brennan and a bemused (or amused!) Tim Fischer.

Sadly, amusement is unlikely to be the final outcome of the High Court’s constitutional adventurism. It may be that the Court has been frightened from the course of constitutional experimentation, at least temporarily, by the bad reviews which it has drawn in conservative constitutional circles. If it has not, then the high likelihood is that the Court eventually will blunder into some purely political fracas which is simply too important to the politicians to be left to the sonorous self-satisfaction of the Court. When this occurs, we will have reached that appalling point, so long eschewed in Anglo-Australian constitutional history, where the pretensions of the judges will collide with the pragmatism of the politicians. Out of such a collision, there will emerge only one victor, and it will not be the Court.
Judicial Activism: Precautions but no Cures

J.R. FORBES

The consequences of an ill-considered appointment to the High Court may haunt governments for a long time. Dr John Forbes suggests some ways of doing it better.

The High Court has a golden opportunity to enliven the debate about judicial activism. In a challenge to the recent Hindmarsh Bridge legislation, it will be invited to decree that laws based on the federal 'race power' are unique. The argument is that such laws are valid only if they favour the race in question. The astonishing result would be that existing 'race' laws are non-repealable and can only be amended so as to maintain or increase the favours they confer. It would also follow that governments of all compositions would have to think long and hard before they ever used the 'race power' again. It will be interesting to see whether this vision imposes too great a strain on the Court's creativity.

Unlike constitutional courts in the United States and Europe, the High Court of Australia is also an ordinary court of appeal. This is a curious amalgam, and when activism waxes on the constitutional side the broad brush tends to be used on the common-law side as well. After all, Mabo is not a constitutional case. It purports to be common law.

Let us dispose of a red herring. A mechanistic application of pre-set rules to facts is not the only alternative to judicial activism. But there is a vast difference between incremental adjustments to the law and sudden and major changes in the manner of parliamentary action. There is a world of difference between a deft tweak to the common law of contract, or damages or a rule of evidence (on one hand), and the creation of a race-based system of land law which promises years of controversy, litigation, legislation and vast public expense. This is not a matter of independence but of judicial self-restraint.

Pending retirements from the High Court raise the question: 'How could a government, if so disposed, try to tone down the activist tendency?' A former federal minister who once had judicial posts in his gift is agnostic, even a trifle despairing: 'They told us that Billy Deane was a traditionalist and look what happened there!'

Much is made of an eighteenth-century Frenchman's idealization of the British constitution—the theory of separation of powers. But the 'separation' cuts three ways and a judiciary which demands that politicians and bureaucrats keep off its patch should surely reciprocate. Yet some members of the High Court have lately described politicians as ' spineless', puppets of the executive, and as people who are at the mercy of 'the winds of political expediency'.

How can one know how Bloggs will behave as a High Court judge until he has been one for some time? Recall the Pauline journey of ex-Chief Justice Mason from black-letter business lawyer to keen judicial legislator proselytizing for the new-found faith. The short answer, of course, is that an appointing government never can be sure. But it can try to minimize the risks if it has the will to do so.

The Americans do not lock themselves into a Supreme Court appointment until the candidate has been interviewed (or grilled) by a Senate committee. But our legal culture will not tolerate such a process in the foreseeable future; and the extroverts and careerists who might submit to it are unlikely to be suitable judges. In any event one cannot assume that the politicians of the day will be averse to activism. Is it likely that the colleagues of the late Lionel Murphy would have blocked his lateral arabesque from Parliament to the High Court? Politicians hankering for constitutional change know that a High Court decree is much better bet than a referendum.

However, what could be done? Almost certainly it is too late to rescue the High Court from its monastic retreat in Canberra. But the judges' selectors need not rely on Canberra-based advisers or...
third-hand professional gossip for knowledge of a candidate's likely disposition, given unappealing power. They should consult a wide range of people in the candidate's home city who know him well and who are prepared to be candid. Genuine consultation with the relevant State government would be valuable here. It is amazing that for so long one team in the federal competition has been allowed to pick all the umpires. Was this the Founding Fathers' greatest mistake?

Avoid self-promoters, power-seekers and the hyper-ambitious at all costs, however adept their legal technique. In search of the real man the selectors should move away from fashionable 'chambers' to learn something of the Young Turk of yesteryear. Student politicians or behaviour at the junior Bar could be a preview of the judicial imperialist to come.

The pin-stripped elite of the commercial Bar are not always sure bets these days. Vanity is drawn to fashion as a moth to the flame. When a more modest concept of the judicial role enjoyed the highest status, one could count upon its observance by any competent lawyer. But when activism is the cynosure of the chattering classes some dedicated interpreters of business documents succumb (even late in a judicial career) to the applause. Judicial status is not what it used to be, and when the status-conscious become bored with ordinary judging, judicial legislation offers a greater sense of power. All credit to Chief Justice Gleeson of NSW, who in 1995 wrote an eloquent and learned plea for consultation with the public service which still enjoys security of tenure. No credit to Justices Kirby, Brennan and others who do not own a word about the dangers of judicial promotion! It was long accepted that a practice of judicial promotions erodes judicial independence, but in Australia this axiom is in sad decline. Governments which tempt ambitious judges to work with an eye on the next career grade are not enhancing the judiciary. In recent years far too many recruits to the courts (particularly the Federal Court) have moved like larks ascending from one judicial level to another.

This phenomenon threatens quality as well as the perception of independ-ence. It can give politicians and bureaucrats who dispense judicial posts a risk-free way of promoting friends and congenial mediocrities. Instead of provoking the relevant State profession by making an inappropriate appointment straight to a superior court, they can quite plausibly place the favoured one on some lower court or tribunal which excites little professional envy and no public attention. Later, the favourite, already anointed, may be eased one, two or even three steps up the ladder. Lawyers and journalists seldom cavil at the appointment of a judge who is already a judge. So in a self-proving theorem, judgeships become career grades in a branch of the public service which still enjoys security of tenure and perquisites.

Under the previous federal government one 'tip' for the High Court tried unsuccessfully to catch the patron's eye with defences of judicial activism. Under the present regime he has fallen silent on that subject but his prospects are still being touted and he could yet be endorsed by some naive or unobservant politician. It has been suggested that the Government has already 'blown' one chance to moderate the High Court. If so, will the error be repeated?

Appointments to the High Court from the profession are now rare. A case can certainly be made for prior judicial experience, but if people who are already judges are moved to the High Court it should be their one and only promotion. How curious it is that recent homilies on judicial status and independence by Justices Kirby, Brennan and others say not one word about the judicial promotions. Was this the Founding Fathers' greatest mistake?

It has been suggested that the Government has already 'blown' one chance to moderate the High Court. If so, will the error be repeated?
Redirecting the Defence Dollar

MICHAEL O'CONNOR

Michael O'Connor proposes a dissenting view of efficiency in Defence spending, and suggests that it may make bureaucratic problems worse.

When he announced the establishment of the Defence Efficiency Review in October 1996, Defence Minister Ian McLachlan referred to the need for Defence to focus on its 'core business'.

It's a fashionable notion derived from the private sector, but one which translates badly to much of the public sector and very badly to national defence. After all, defence is not a business producing goods or services. Its primary task is to combine with other arms of government to prevent war and, if that fails, to win the war that it has not prevented. Success or failure cannot be measured in cost/benefit terms, at least not in those measured in dollars, until after the event. Then too, a truer measure will be the cost in lives. If business terms must be used, defence is akin to an insurance company which builds reserve funds against some disaster.

Given that fundamental reality, measuring the efficiency with which Defence spends its annual allocation of some $10.4 billion is ultimately possible only if it fails in its task. If war does not occur, Defence may claim to have achieved its objective; but the claim has to be matched against the performance of other departments such as Foreign Affairs or even of foreign allies.

To be sure, some measures of efficiency can be applied within limits, but the limits are difficult to set. For example, morale—which Napoleon regarded as war's most vital element—is not only difficult to measure but can be damaged as much by thoughtlessness and misunderstanding as by monetary or other neglect. In recent years, the total quality management enthusiasts in Defence have tried to force commercial-style 'customer–supplier' relationships between individuals in the Defence Force. These are the direct antithesis of the team spirit upon which both combat effectiveness and morale depend. Taken to ludicrous extremes, it envisages a wounded digger bargaining with his mate before being rescued.

Arguably, the focus on efficiency arises from the preoccupation in the higher echelons of Defence with modern management processes. For years, the Australia Defence Association has been critical of the management of defence in Australia. It has repeatedly pointed to an overlarge regular officer corps, and a clumsy management system that denies talented personnel the ability to get on with the job and which leads to risky if not dangerous delays. The Association has been critical of the way in which government policy had been misapplied to sustain bureaucracies at the expense of combat forces and the failure of governments to discipline those bureaucracies.

Underlying its concern was the recognition that the end of the Cold War, coupled with the development of vastly more accurate conventional weapons together with rapid communications, had made traditional industrial-age warfare obsolete. While armed conflict would continue, it would be constrained in space, time and intensity. This factor, coupled with the large draw-down of United States military power, created uncertainties for middle-level powers such as Australia. Australia has extensive interests beyond simply ensuring its territorial integrity but has traditionally relied upon major powers to guarantee those interests. The changes meant that the reliance upon major-power guarantees would necessarily be replaced by greater burden-sharing, a notion that President Nixon tried less than successfully to suggest to America's allies as far back as 1969. In turn, true burden-sharing required Australia to turn its back upon tradition and maintain forces which were capable of rapid deployment.
The Defence Efficiency Review has been put on notice to achieve estimates that some reservation must be achievable from a rationalization employed more productively. A further implementation, the Review team suggests, will take up to eight years to be realized some extent by the fact that the savings and 52 recommendations. Taken together and assuming their faithful implementation, the Review team suggests that up to $1 billion (10 per cent of the total defence budget) could be redeployed more productively. A further one-off saving of $500 million is said to be achievable from a rationalization of facilities and stock holdings.

This level of potential saving is astonishing. So far does it exceed the wild estimates that some reservation must be warranted. Administratively, Defence has been put on notice to achieve this level while politically the Government will come under further pressure from the vocal 'bleeding heart' interest groups to reduce defence spending further. Given the lack of interest in national security on the part of most MPs and indeed many ministers, these pressures will be difficult to resist. Defence Minister McLachlan is protected to some extent by the fact that the savings will take up to eight years to be realized in full because of the numbers of personnel who have to be paid off or redeployed.

**NO WHITEWASH**

The Defence Efficiency Review established by the Minister has made 18 findings and 52 recommendations. Taken together and assuming their faithful implementation, the Review team suggests that up to $1 billion could be redeployed more productively. A further one-off saving of $500 million is said to be achievable from a rationalization of facilities and stock holdings.

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**CANADA BY STEALTH?**

Central to an understanding of the Review is its focus upon changing the organizational structure rather than the processes by which Defence operates. But shifting boxes on an organizational chart will not solve the problem of the system's inability to delegate real authority to capable individuals and then making them accountable for the outcome.

Behind the gloss, the Review proposes some substantial changes to the way Defence operates. Its recipe is for a massive centralization of power and authority in the Chief of the Defence Force, the value of which has been asserted rather than demonstrated.

The shift of power to the CDF at the expense of the Service chiefs is a serious bone of contention that resulted in the Prime Minister's intervention. Although the PM overrode the chiefs' objections, the Review's proposals look very much like the disastrous Canadian-style unification of the Services without actually changing the uniforms.

The Review's proposals are intended to overcome the duplication of staffs in the Services and ADF headquarters, a very sound objective but one to be achieved by centralization rather than devolution. The essential differences between the roles of Services can justify separate organizational structures and different administrative policies. As just one example, the leave requirements for naval personnel spending long periods at sea are quite different from those of, say, RAAF personnel who rarely serve away from their comparatively well-appointed bases. The Review's proposals will, in the name of controlling joint operations, centralize policy-making in personnel, training and logistics. This will lead to excessive rigidity or the proliferation of processes designed to manage anomalies. It is a recipe for greater, rather than less, bureaucracy.

Australian Defence Headquarters has developed as a collection of staffs that, especially in the Personnel and Development areas, replicate single-Services staffs with soldiers responsible for soldiers and land warfare, sailors responsible for sailors and sea warfare and so on. They are only truly joint staffs at the most senior levels. At the same time, the single Service chiefs who have responsibility for their Services, especially in the fields of personnel, training and doctrine, are now marginalized.

There are powerful efficiency-based arguments for making the Service chiefs responsible for raising, training, equipping and delivering formed units to the CDF's operational command. The CDF would then be responsible for policy guidance and exercising overall command. He would tell the Services what he required for operations and see that they got the resources. Such an arrangement would not diminish his authority or responsibility in any way but would allow him to become a true strategic-level commander.

The new arrangement proposed by the Review—of giving the chiefs what is in effect a nominal role subject to the pleasure of the CDF of the day—is a recipe for ensuring that no serious officer will ever want to be the 'professional head' of his Service. In reality, it looks very much like a grab for power following a struggle that has been going on virtually since Federation.

The ultimate test of the effectiveness of this Review will be whether resources are directed towards improving combat capability and readiness. There will be a temptation to use the money to restore some of the yawning gaps in capability without necessarily increasing readiness levels. This temptation must be resisted even if it means that, in the medium term, governments have to bite the bullet of increasing the level of resources devoted to defence. The Minister has emphasized that defence spending may need to rise in the medium term and it is good that he should be flagging this reality now.

While the DER has identified a potential for substantial savings, this was not the point. Freeing up resources is useful but ultimately the purpose of the Review was to enhance the combat capability of the Defence Force. The outcome threatens failure by launching yet another over-centralized bureaucratic turf war.

Michael O'Connor is executive director of the Australia Defence Association.
The Simons Report on Australia's aid programme has been largely neglected. Peter Urban, a Visiting Fellow at the Australia-Japan Research Centre at ANU offers an assessment of its virtues—and failings.

The report One Clear Objective: poverty reduction through sustainable development (the Simons Report) provides a refreshing review of Australia's aid programme. Indeed, of all the reports to government that I have read in over 25 years as a policy economist, the Simons Report is one of the best that I have seen.

Despite that praise, the Report suffers from two flaws that undermine its usefulness as a guide to aid policy: first, while it sets out very clearly the economic case for aid, it does not set out a framework within which policy-makers can assess alternative aid policies; and second, while it acknowledges the benefits from aid, it does not measure those benefits against the opportunity cost of aid spending.

To explain the second point (which is the minor flaw) first, it is useful to cite the Simons case for aid: Economic development in the region has trade benefits for Australia, enlarging the market for our exports and foreign investment. This argument is a valid support for aid spending only if:

• the aid spending leads to economic development in the recipient country; and
• it also yields more benefits to Australia than using the funds within Australia in, for example, tertiary education, the health system or research and development. (I have assumed that instead of using the incremental aid dollar to reduce the budget deficit, which in any case is moving into surplus, the Government would use the money for other public-good purposes.)

Given the record of our aid programme in, say, PNG—where after Australian aid spending of more than $11 billion in today's prices, development indicators are lower than they were at independence—the Simons Report should have undertaken and published some thorough cost/benefit analyses rather than simply recommending that an independent evaluation unit should be established. These analyses would then have provided benchmarks for the Report's proposed evaluation unit.

Of course, trade—or more general economic or income distributional benefits, for that matter—is not the only reason for Australian aid. As the Simons Report notes, aid can also contribute to regional stability and improve Australia's defence position. Good domestic policies, however, also contribute to these goals. Indeed, because of the greater direct control over domestic policies, the presumption is that, even in terms of more general objectives, aid spending is a second- or third-best policy strategy.

Regarding the policy framework, the Simons Report clearly has in mind the externalities/market-failure framework that guides most economic policy. Unfortunately, this implicit reliance on public goods and externalities does not generate a policy approach directed to addressing these problems explicitly. Rather, there is fuzzy support for programmes directed at poor governance and other sources of market failure: there is no discussion of whether these programmes address the failures directly or are simply nth-best policies that only tangentially impact on the problem. As a result, we are left with a grab-bag of aid programmes and policies that prima facie are likely to fail the benefit/cost test set above.

Moreover, aid faces the same incentive/moral-hazard problems so well covered by writers on domestic welfare policies. How, for example, can we expect Tuvalu to continue to commit to good management when other countries receive generous aid support despite poor policies? While the Simons Report does support the use of 'conditionality' and refers approvingly to the withdrawal of aid from a particular project in the Solomon Islands, commitment to policy reform is only used at the margin as a determinant of aid allocations. The bulk of aid is and will continue to be provided without regard to policy performance in the recipient country (yet this is probably the single most important reason why well-performing recipient economies generate the highest return to aid programmes).

In any case, for countries such as PNG, it is extremely difficult for the Australian Government to enforce strict conditionality, even with project (as opposed to Budget) aid. Instead, we rely on indirect conditionality—for example, that PNG meets the conditions of World Bank or IMF loans—in order to limit the political problems conditionality presents. But even where PNG has been in direct breach of the conditions of an Asian Development Bank (ADB) loan, we have continued to provide aid funds. So much for conditionality!

Overall, the Simons Report is a telling review of the performance of Australia's aid programme. Until the aid programme includes delivery efficiency in its definition of aid effectiveness, however (that is, until aid policy is placed in a similar context to any other economic policy), our aid programme will lack a clear approach, even if it has a clear objective.

Note

1 The circumstances of the PNG default were quite egregious. To get the loan, the PNG Government agreed to make some changes to agricultural support prices. Once it had drawn down the ADB loan, however, it then reversed the legislative changes that it had agreed to with the ADB. Behaviour like this by PNG and other South Pacific island governments is probably a factor in the decline in aid support for these countries from donors outside the region.
Black and White

RON BRUNTON

What Is Genocide?
A Response to Bringing Them Home

AD it been prepared by people of wisdom and goodwill, Bringing Them Home could have been a constructive report. On the one hand, it could have helped people to understand that Aborigines were once made to feel that their humanity was impaired simply because they were Aborigines, and the baneful consequences of such thinking and practices. On the other, it could have encouraged Australians to reflect on the dangers of enshrining racial or ethnic classifications in legislation, and on the need to restrain official bodies from following their tendency to intrude into all spheres of life, no matter how private.

Unfortunately, this was not to be. Bringing Them Home is an unworthy document. This is most apparent in its claim that the removal of Aboriginal children (almost invariably those of 'mixed race') constituted 'genocide', a charge based on the 1948 UN Convention on Genocide. This defined genocide as any of five acts 'committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such'. One of these acts is 'forcibly transferring children of the group to another group'. (However, under the Convention's definition political or social groups were deliberately omitted in deference to Stalin's wishes, thus excluding Pol Pot's extermination of up to 2 million Cambodians.)

Bringing Them Home presents the assimilation policy as the crucial justification for the genocide charge, for it was this policy that was supposedly intended to destroy the group'. It states 'it is clear that "mixed race" or "half-caste" children were recognised as "children of the group", that is as indigenous children and not in any sense as children of no group or as children shared by different groups.... Aboriginal society regards any child of Aboriginal descent as Aboriginal'.

Although I will be presenting a more detailed discussion of the assimilation/genocide equation in an IPA Backgrounder, it is worth making a number of points now. The situation in regard to what were called 'mixed race' children is by no means 'clear'. Even amongst the most radical critics of Australian policy in the 1930s and 1940s, the belief that 'mixed race' Aborigines had to be treated very differently to 'full-bloods' was widely held. In Shades of Darkness, Paul Hasluck noted that reformers urged that mixed race persons should be recognized as 'part-European', and that 'as a body, half-castes were rejected by the aboriginal people', a rejection that even then still found expression in the practice, in at least some areas, of killing such children at birth. Thus in her book Nature and Nurture: Aboriginal Child-Rearing in North Central Arnhem Land, the anthropologist Professor Annette Hamilton wrote about research she carried out in Maningrida in the late 1960s: "Part-European babies were not reared in the past. Today there is only one such baby at Maningrida [sic], a one-year-old...".

In a booklet called Black Chantels, published by the National Council for Civil Liberties of Great Britain in 1946, Geoffrey Parsons drew on a wide range of critical Australian sources to present a damning indictment of past and contemporary policies. As for the future, Parsons argued that there are two distinct problems. First and most urgent is the problem of the full-blooded Aborigine. There are thousands of them still living in tribal or semi-tribal conditions, but their number grows less each year, and unless the Australian Government can be induced to change its policy and to adopt the appropriate measures it will be too late to save them, for the remaining tribes will already have been forced to start out along the well-trodden road that leads from disruption to demonisation and final extinction.

The 'second problem' was the 'mixed blood' Aborigines. Following the lead of many supposedly 'progressive' and 'expert' critics of Australian policies, Parsons argued for the establishment of 'inviolable reserves' for the full-bloods and full civil rights for all people of mixed race. The 'first essential step' was to ensure 'that the words "Aborigine" and "Native" shall apply only to full-blooded Aborigines' in legislation. In other words there was a vocal and influential body of opinion that was warning Australian governments that they would be complicit in 'genocide'—although the term itself was not used—unless they differentiated between 'full-bloods' and 'mixed bloods'.

As repellent as this kind of racial thinking now appears, it also seems to have influenced the most politically active Aborigines of the time. In their passionatemanifesto written for the 'Day of Mourning' on Australia Day 1938, Aborigines Claim Citizen Rights, Jack Patten and William Ferguson—the Mick Dodsons of their day—stated that the real purpose of the current legislation was to 'exterminate
Beyond Child Rescue

DOROTHY SCOTT

Child abuse has been with us for a long time, and current approaches to child protection are under attack for both over-intervention and under-intervention. Is there an alternative to the state’s removing children from the family or leaving children in dangerous situations?

CHILD abuse is an emotive issue and lends itself to sensational and simplistic media coverage. But child abuse is a complex issue and raises a number of questions.

First, what is child abuse? At the extreme end of the spectrum few would dispute that parental actions resulting in physical injury constitute abuse and that the state has a role to protect the powerless and vulnerable child. But some advocates in the children’s rights movement extend the definition of child abuse to include smacking and in Scandinavia, any form of physical punishment of children is now illegal. Some of the acts which are defined today as child abuse were normative child-rearing in a previous era, so where do we draw the line? Child abuse can take many forms, including acts of omission, such as neglect, as well as acts of commission such as sexual abuse and physical abuse. Contrary to the impression created by the media, neglect is the most commonly reported form of child abuse.

Second, what causes child abuse? Some people have emphasized psychological factors in the parent such as parental drug dependence or disability, or deficits in the parent’s personality which affect the quality of attachment to the child or their impulse control. Others have emphasized sociological factors, such as the lack of support from extended family, or the stresses and strains of single parenthood and poverty. Recent research suggests that an interaction of a broad range of factors contributes to child abuse occurring.

In Victoria, 25 in 1000 children are now the subject of a child protection notification to the statutory child protection service. This is one of the highest figures in the world, with over 30,000 cases being reported in Victoria last year. Yet only 20 per cent of these reports are found to be cases of abuse, and only a small proportion of these then proceed to the Children’s Court. The risks of under-intervention by child protection authorities, which have left a small number of children exposed to injury, must therefore be balanced against the risks of over-intervention in the lives of a huge number of families which often leaves them stigmatized and suspicious, not knowing who has reported them. Of the small proportion of cases proceeding to the Children’s Court, many more are being contested. This is causing a serious backlog in the Court, which compounds the plight of the children and their parents, particularly if the children have been removed from home. The adversarial process also increases the hostility of parents, making it less likely that they will accept the services which could assist them.

This leads to the fourth question. Does our current child protection system work? Critics say that despite the increasing amounts of money put into the child protection system—Victoria alone now has over 600 State-employed child protection
work is done in the family home rather than modelling positive interaction. Most of the what all family members have to say, thus with the family show respect and listen to increasingly refer themselves. Those working with the parents, who may be referred by the child protection service, or who in- place. How does it do this? St Luke's staff ents in an attempt to make the home a safer environment for children it is like looking for the needle in the haystack.

Delays in investigations increase the risk of abuse occurring, and hasty investigations increase the chance of children being removed unnecessarily or left in danger. Stressed and demoralized staff do not stay (in NSW the average length of employment of a District Officer is now eight months), compounding the system’s problems. These features are common to all child protection systems which are based on the North American model of mandatory reporting, a legalistic response to famil- lies in difficulty, and a lack of primary and secondary prevention services.

Is there a better way? In a book enti- tled Beyond Child Rescue, Di O’Neil from St Luke’s Family Care, a non-government family welfare agency, and I argue that there is. St Luke’s used to provide care for children who had been removed from their families. Now, except as a last resort, it avoids doing this and tries to engage parents in an attempt to make the home a safer place. How does it do this? St Luke’s staff start by developing a positive relationship with the parents, who may be referred by the child protection service, or who in- creasingly refer themselves. Those working with the family show respect and listen to what all family members have to say, thus modelling positive interaction. Most of the work is done in the family home rather than

The early results from such an approach are encouraging. One of the keys to success appears to be the integrated way in which St Luke’s delivers its services through the family’s core relationship with only one or two workers, avoiding fragmentation and duplication of separate services for different needs (such as financial counselling, family counselling, foster care etc.). Fund- ing has come from State Government subsidies—it is a lot cheaper to maintain children in their families than to remove them—and from philanthropic bodies. The Ian Potter Foundation is assisting St Luke’s and other non-government agencies to develop innovative approaches to prevent child abuse. With the continuing support of The Ian Potter Foundation, St Luke’s, which is located in the regional town of Bendigo, is now embarking on a new community development approach to the pre- vention of child abuse in a neighbourhood which has a high child protection notifi- cation rate. If, as the African proverb states, it takes a village to raise a child, then the obvious question becomes—what does it take to raise a village? Tapping into the re- sources in the community, rather than turn- ing over families to the state, may be the way we need to go if we are to successfully tackle the problem of child abuse.

Dorothy Scott is from the Children, Young People and Families Research Unit in the School of Social Work at the University of Melbourne.

Available from the Melbourne office of the IPA for $15.00 plus $2.00 p&p

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ONFERENCES dealing with the
effect of increased levels of green-
house gases on climate are usually
collected with a fair degree of
emotionalism. On this occasion aspects of
science, economics and politics associated with
the global warming question and the Framework
Convention on Climate Change were discussed in
a refreshingly rational way. The Kyoto meeting
is a Conference of Parties to this Convention.

Greenhouse science has been the subject of
innumerable meetings over the past decade, and
uncertainties in the measurement of past climate
and model simulations of future climate, often
misinterpreted as predictions, are well recog-
nized. The most recent comprehensive review of
this science is contained in the 1995 Second
Assessment Report of the Intergovernmental
Panel on Climate Change. Perhaps the main new
conclusion of this report is contained in the
phrase 'the balance of evidence suggests a
discernible human influence on global climate'.
At that time there was a genuine consensus on
this point among the large number of scientists
around the world who participated in the
review. The two aspects that seemed relatively
clear were that surface air measurements
averaged over the whole globe showed a clear
warming trend, albeit in two periods, 1910–1940
and 1965–1995, and that climate models were
able to replicate this by taking into account
changes in the concentration of greenhouse
gases and sulphurous dust particles in the air. It
was probably these results more than any others
that gave rise to the consensus. But the phrase
does not mean that the evidence was over-
whelming; indeed one disconcerting feature is
the difficulty of believing the global averages
from models which exhibit major regional errors.

We now know from the Canberra Confer-
ence that this time profile of global temperature
change may be spurious. Dr Patrick Michaels
showed that the global warming trend obtained
by one group of workers from analysing tem-
perature over the period 1963–1986 would
have been a slight cooling trend if the longer
period 1956–1997 had been used. This alone
would have been uncomfortable but the
uncertainty was considerably advanced by Dr
John Christy whose analysis of satellite-based
global observations for the period 1979–1997
showed no evidence of a warming trend. These
satellite measurements provide much better
samples of global average temperatures than do
the conventional surface-based measurements
used in the IPCC report.

These new findings add to existing concerns
about the provenance and method of analysis of
global temperature data and the capability of
climatic models to represent adequately all the
processes affecting climate. Taking at face value
the 'Precautionary Principle' so often cited by
those passionately advocating major greenhouse
gas reductions, this means that the scientific
justification for any policy beyond a 'no regrets'
approach to emission reductions is precarious
indeed.

The economic considerations discussed at
the Conference centred on the modelling
undertaken at the Australian Bureau of Agricul-
tural and Resource Economics (ABARE) of the
effects on various countries of the policy of
uniform carbon dioxide emission reductions
likely to be proposed at Kyoto in December
1997. This shows that such policy approaches
would not achieve significant environmental
gains, would not reduce emissions at least cost
and would produce inequitable outcomes
skewed in favour of the European Union and

One of the most
significant confer-
ces held in Aus-
tralia for a very long
time took place in
Canberra, on 19–21
August this year.
Entitled 'Countdown
to Kyoto', against the
background of the
coming Kyoto Confer-
ence on climate
change. It assembled
experts in three
areas—climatology,
economics and
politics—to explain
and to challenge the
status quo.

In this Focus section,
Brian Tucker, the
IPA’s Senior Fellow,
Environment, reports
on the proceedings.
His introduction is
followed by edited
contributions from
U.S. Senator Chuck
Hagel, Dr John R.
Christy, and Dr Brian
O’Brien—and we
regret greatly that
lack of space pre-
vents us from print-
ing more.

We gratefully ac-
knowledge the help
and permission of
Alan Oxley, chairman
of the Australian
APEC Study Centre at
Monash University,
which was the
principal organiser of
the Conference in
Australia. Copies of
the full conference
proceedings are
available from the
APEC Study Centre,
or can be accessed
from the Internet at
http://
Brian Tucker is a Senior Fellow with the Institute of Public Affairs and Director of its Environment Unit. His article in The National Interest, 'Science Friction: The Politics of Global Warming', was recently cited in a Washington Post editorial as one of the most sober and impressive contributions to the greenhouse debate.

Note 1:

the United States. Over a period of 20 years the decrease in gross national income for Australia and Japan would be nearly 5 times greater than for the United States, and some 60 times greater than for the European Union which would experience only a small decrease. One of ABARE's main findings is that carbon dioxide stabilization in developed countries alone will do little to limit growth in global emissions because of the expected rapid emissions growth in developing countries such as India and China.

Recently ('Vested interest in our future', Opinion, The Australian, 11 August), the Australian Conservation Foundation (ACF) has traduced ABARE's modelling in an attempt to minimize the impact of this research by maligning the integrity of the professional economists involved. The ACF appear happy to ignore the serious social and economic consequences that would follow the draconian emission reductions they so irresponsibly advocate. But this ACF reaction is no different from the attempted disruption of the Canberra Conference by Greenpeace rowdies. When emotion reigns there is no compunction about ignoring adverse evidence—but to stop it from emerging altogether would be even better.

Much of the political comment came from two Senators (one present and one past) and one Congressman from the U.S. who attended the Conference. They were at pains to assure listeners that the Clinton Administration's advocacy of uniform emission reduction, without the participation of developing countries and with no allowance for the different economic and social differences between participating nations, did not enjoy widespread support in the United States. Indeed much discussion centred on the 25 June Byrd-Hagel Resolution passed unanimously (95–0) by the Senate, rejecting the Administration's proposed negotiating position in Kyoto. It directed the Administration to insist on full participation of the developing countries in any agreement and not to agree to a treaty binding the U.S. to a target unless countries such as China, South Korea, India and Mexico agreed at Kyoto to emission targets with a specified time period. It also stated that any treaty signed at Kyoto, and later submitted by the Administration to the Senate for ratification, must include a detailed explanation of the cost of proposed policies and their effects on the U.S. economy.

A disturbing side-issue arises here. The Australian Government's position at Kyoto, based on the results of the ABARE model, is likely to be to argue against uniform mandatory emission reduction targets because of the relative disadvantage to Australia. It is rumoured that the U.S. Administration has sent economic experts to Australia to work with national non-government environmental groups in a search for deficiencies in the ABARE model, which is apparently the most developed of its kind. If this were true then it must reflect badly on the national groups concerned who would be seen to be working with foreign representatives against our elected government.

There were many other important contributions to this 'Countdown to Kyoto' Conference, and nearly all were well reasoned and informative in their analysis of the policy implications of the Framework Convention on Climate Change. Most were consistent with an opinion that has been expressed before in the pages of the IPA Review: 'The response of policy-makers to global warming has been more alarming than the prospect of climate change itself'.

OCTOBER 1997

Cartoon reproduced with the kind permission of Rhonda Mitchell and Dr Brian J. O'Brien
THIS is not a debate about who is for or against the environment. I have yet to meet an American, an Australian, or anyone who wants dirty air, dirty water, a dirty environment or declining standards of living for their children and grandchildren. We all agree that we need a clean environment, that we want to leave our children a better, cleaner more prosperous world.

What the discussions on climate change should be about is finding the truth, about asking the necessary questions and expecting straightforward answers—What are the problems? If there are problems, what is the best solution? What are the costs? What are the consequences? Do we need to act now, or is it best to wait until we have better information?

Let me make it very clear: I believe we are headed down the wrong path in the negotiations for any global climate treaty to be signed in Kyoto this December. And a great many of my colleagues in the United States Senate agree.

In the United States, it is the Senate which has the final say on any treaty. Our Constitution gives the American Senate the authority of advice and consent over any international agreement. The President can negotiate whatever treaty he chooses, but no treaty will become law or have any effect in the United States without the approval of two-thirds of the Senate. And in its current form, the Global Climate Treaty would face a resounding defeat in the United States Senate.

The Byrd–Hagel Resolution, which recently passed the United States Senate by a vote of 95–0, put the U.S. Administration and the world on notice that an overwhelming and bipartisan majority of the United States Senate rejects the current path of the negotiations for a global climatic treaty.

The resolution rejects the Berlin Mandate. It says very clearly that the U.S. Senate would not ratify any treaty which would submit the United States, Australia and the other Annex I nations to legally-binding reductions in greenhouse gas emissions without requiring any new or binding commitments from the 130 developing nations such as China, Mexico, Indonesia, and South Korea. It also says that the U.S. Senate would reject any treaty or other agreement that would cause serious economic harm to the United States.

Let me be very blunt: if the Annex I nations sign a treaty in Kyoto which exempts the developing world from binding reductions in greenhouse gas emissions, it will not see the light of day in the United States. The rest of the world can do as it pleases, but the United States Senate will not ratify a treaty that would place a straitjacket on our national economy while leaving many of the world’s nations untouched by its provisions.

Any action that would have such dramatic ramifications for the U.S. economy, the Australian economy, and others, must be based on sound and conclusive science. This treaty is not.

If anything has become clear to me as I have studied this issue and held hearings in the U.S. Senate, it is that the scientific community has not definitively concluded that we have a problem with global warming that is caused by human actions. The science is inconclusive and often contradictory. Predictions for the future range from no significant problem to global catastrophe.

The subcommittee I chair in the U.S. Senate, International Economic Policy, Export and Trade Promotion, held two hearings on this issue. In the second hearing we heard testimony from Dr. Patrick Michaels, a distinguished climatologist and Professor of Environmental Sciences at the University of Virginia. In the hearing, Dr. Michaels noted that conditions in the real world simply have not matched changes projected by some computer models. Most of the warming this century occurred in the first half of the century—before significant emissions of greenhouse gases began. Further, eighteen years of satellite data actually show a slight cooling trend.

Before the U.S. Senate Environment and Public Works Committee, Dr. Richard S. Lindzen, Professor of Meteorology at the Massachusetts Institute of Technology, testified that 'a decade of focus on global warming and billions of dollars of research funds have still failed to establish that...'

COUNTDOWN TO KYOTO

Kyoto: The Political Realities

SENATOR CHUCK HAGEL

‘In its current form, the Global Climate Treaty would face a resounding defeat in the United States Senate.’

‘Any action that would have such dramatic ramifications for the U.S. economy, the Australian economy, and others, must be based on sound and conclusive science. This treaty is not.’

‘A decade of focus on global warming and billions of dollars of research funds have still failed to establish that global warming is a significant problem.’
global warming is a significant problem'. At the same hearing, Dr. John Christy, an associate professor in the Department of Atmospheric Science at the University of Alabama, stated that 'The satellite and balloon data show that catastrophic warming is not now occurring. The detection of human effects on climate has not been convincingly proven because the variations we have now observed are not outside of the natural variations of the climate system'.

It is clear that the global climate is incredibly complex. It is influenced by far more factors than originally thought when some early, crude computer models first raised alarms about the possible threat of imminent catastrophic global warming. The scientific community has simply not yet resolved the question of whether we have a problem with global warming. They have not been able definitively to conclude if the warming that has occurred in this century is due to human action or natural variations in the earth's atmosphere.

According to another scientist, Professor Nicholas Christie-Block of Columbia University, 'The information we have to judge the modern climate is incomplete. We don't have that long-term perspective'. Studying core samples gives the scientists information on when the earth's oceans rose and fell. They can chart the earth's ice ages and hot spells. Some of these scientists believe as you look at the history of the earth that we are actually at the warmest point midway between two ice ages. The forecast? As an NBC reporter stated, 'Hot tomorrow, and 50,000 years from now skiing in Texas and sledding in Florida'.

The 16 May edition of Science magazine, one of the leading American scientific journals, stated that 'Many climate experts caution that it is not at all clear yet that human activities have begun to warm the planet—or how bad greenhouse warming will be when it arrives'.

So why are we rushing to sign a treaty in December aimed at solving a problem the scientists cannot agree that we have or that is caused by human actions?

Even if the scientists could agree that we have a problem with global warming caused by human pollution of the atmosphere—this global climate treaty would do nothing to provide a long-term solution.

Any treaty negotiated under the Berlin Mandate will not ask for legally-binding commitments from the more than 130 'developing' nations, including China, Mexico, South Korea, India and Singapore. This makes no sense at all, given that these nations include some of the most rapidly developing economies in the world and are quickly increasing their use of fossil fuels. By the year 2015, China will be the world's largest producer of greenhouse gases. And China has made it very clear that it will never agree to binding limits on its emissions of greenhouse gases.

It is the U.S. and the other developed nations who are already doing the most to reduce greenhouse gas emissions. Yet it is the developing nations who will be the biggest emitters of greenhouse gases during the next 25 years. It is complete folly to exclude them from legally-binding emissions mandates. How could a treaty aimed at reducing global emissions of greenhouse gases be at all effective when it excludes these 130 nations? It won't. If these nations are excluded, greenhouse gas emissions will continue to rise and we will see no net reductions in global greenhouse gas emissions. The exclusion of these nations through the Berlin Mandate is a fatal flaw in this treaty.

What would this global climate treaty do? It would cause a significant slowdown in the U.S. economy, the Australian economy and the economies of many Annex I nations.

One of the notable aspects of this issue in the United States is that it has united American business, labour and agriculture. In my hearings in the Senate, we heard testimony from the AFL-CIO, the American Farm Bureau, the National Association of Manufacturers, and noted economists. They all agreed on one thing: this treaty would have a devastating effect on American consumers, workers, farmers and businesses.

Even using conservative assumptions, Charles River Associates, an economic modelling firm, has estimated that holding emissions at 1990 levels would reduce economic growth in the U.S. by about 1 percent a year, rising to 3 percent in later years. What this means to everyday Americans is clear. The AFL-CIO has estimated that the treaty would mean the loss of 1.25 to 1.5 million American jobs. Energy prices would rise dramatically. Individual Americans will pay for this...
treaty—either in their electric bills, at
the gas pump, or by losing their job.

What about the economic impact
on your country? And as all of you
know, economic models show that of
all of the Annex I nations, the
Australian economy would suffer the
worst blow. Japan's economy would
take the second biggest hit. Individual
Australians, Japanese, Canadians and
others would all pay the price of this
treaty through dramatically higher
energy prices and massive job losses.

In the United States, the Argonne
National Labs study, commissioned
by the U.S. Department of Energy,
concluded that constraints on six large industries
in the United States—petroleum refining,
chemicals, paper products, iron and steel,
aluminum and cement—would result in signifi-
cant adverse impacts on the affected industries.
They furthermore concluded that emissions
would not be significantly reduced. The main
effect of the assumed policy would be to
redistribute output, employment and emissions
from participating to non-participating countries.
As you are well aware, the global climate treaty
would have a similar, if not worse, impact on
many of these same industries in Australia.

One of the most troubling aspects to the
current global climate change negotiations is the
proposal advanced by the European Union. The
EU has proposed that it should be obliged only
as a whole to achieve a set level of mandatory
greenhouse gas reductions; that each individual
country of the EU would not then have to meet
the set level of reduction. Some countries, like
Portugal, Spain and Greece, would be able to
increase their emissions. This so-called 'EU
Bubble' would be a special benefit to the EU to
distribute output, employment and emissions
for all the nations involved. This treaty would control nearly all forms of a
country's energy use.

The true long-term impact of this treaty can
be seen in the EU's proposal for uniform 'Policies
and Measures', which would impose regulations,
taxation, and government command and control
over the fields of transportation, industry,
agriculture, forestry, energy consumption and
other areas of a nation's economy. At a time
when the world is increasingly embracing free
markets, capitalist economies, democratically-
elected governments, and individual responsibil-
ity, this treaty would take the world back down
the failed path of government command and
control. It would subject the economies of the
world's individual nations to international
dictates. As a staunch defender of democratic
government, capitalism, open markets and free
trade, I find this an appalling concept.

Why are we rushing headlong into signing a
treaty in Kyoto this December? The scientific
data are inconclusive, at times even contradic-
tory. The economic costs are clear, and devastat-
ing. This treaty would be a lead weight on my
nation's and your nation's economic growth,
killing jobs and opportunities for future genera-
tions.

We need to take global climate issues
seriously. We in the United States and Australia
have made tremendous strides in cleaning up
our environments, and we will continue to make
progress. We are all concerned about the state
of the environment that we leave to our children
and grandchildren. But when we take actions
that will reduce their economic opportunities,
we must ensure that the benefits would be real,
and that they would justify the very real eco-
nomic hardship that we would be passing on to
future generations.

This global climate treaty is not the way to
go. The path to Kyoto should be abandoned until
we have a better idea of the climate changes we
are dealing with and until we can come up with
a truly global solution that is fair and equitable
for all the nations involved.

'If the United States and Australia were
to agree to the EU Bubble, it would allow Europe to meet its obligations in an economically pain-
less way, while the U.S. and Australian economies would suffer massive harm and dislocation.'
The complex international problems of global warming can be resolved into two parts:

- the scientific issues, basically the rate of global warming, and
- the political-economic issues, the policy responses by various countries aimed at controlling the rate of reduction of emissions of greenhouse gases.

This article is focused on the failure of the second part, policy responses, to stay up to date with the first part, the scientific estimates.

**MARCHING TO THE DRUMBEAT OF TORONTO 1988, NOT RIO 1992**

The Toronto Statement of June 1988 had three relevant key outcomes:

- scientific estimates from the 1985 Villach Conference were publicized, with large global warming and rise in sea level expected 'before the middle of the next century';
- a response to those scientific estimates was promoted, being the Toronto target of reducing greenhouse gas emissions in 2005 by a flat 20 per cent below the 1988 levels; and
- the Rio treaty was conceived as the framework convention to agree to such targets, and its date of birth was set as 1992.

Mindsets from Toronto still dominate the international responses on greenhouse gases, to the extent that the science of Toronto was flawed or exaggerated, so too are the current negotiations.

**THE 'OFFICIAL' SCIENTIFIC FORECASTS—GENERAL**

Leading-edge scientists dispute, with some reason, some of the 'official' findings of such scientific groups as IPCC, internationally and CSIRO in Australia. This makes it all too easy for the greenhouse industry to misuse such uncertainties and urge a plague-upon-both-your-houses response, which neglects the real advances in scientific understanding since Toronto. A documented history of misinformation from government environmental agencies is consistent with this pattern.

My strategy in publications from 1990 has been to take the 'official' scientific findings as being conservative, to focus on how they have altered and to examine the strategic implications.

**'OFFICIAL' INTERNATIONAL FORECASTS**

Table 1 compares international greenhouse forecasts made in 1988, 1990 and 1995, for the two major effects of global warming and rise in sea level.

Since the Treaty was signed in 1992, and negotiations have waged intense about a 15 or 20 per cent cut in greenhouse gas emissions, the IPCC estimates of global warming have decreased by a massive 33 per cent.

Important caveats apply to Table 1. It is understood that although the 1995 report (page 6) states that This estimate is approximately one-third lower than the 'best estimate' in 1990, it was not intended by IPCC to convey the meaning of 'best estimate.' Rather it was understood to be the estimate of global warming derived from the combination of the 'best estimate' of climate sensitivity and the mid-range emission scenario out of the set currently in use.

Even so, this one-third decrease in global warming by 2010 between the 1990 IPCC report and the 1995 report is due to three effects: lower emission scenarios, inclusion of aerosol cooling, and 'improvements in the treatment of the carbon cycle.' All three are real.

Readers should consult the original scientific publications to note the different uses and contexts of terms such as 'likely' and 'best estimate.'

**'OFFICIAL' AUSTRALIAN FORECASTS**

The CSIRO Division of Atmospheric Research has been the leading source of 'official' Australian forecasts of greenhouse climate change.

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**Table 1: Postponing Greenhouse Since 1988—Reduction in Predicted Impacts by 2030**

<table>
<thead>
<tr>
<th>Year Forecast Made</th>
<th>Rate of Global Warming</th>
<th>Greenhouse Effect by 2030</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Temperature Rise</td>
<td>Sea-Level Rise</td>
</tr>
<tr>
<td>1988</td>
<td>0.8°C per decade</td>
<td>3.0°C</td>
</tr>
<tr>
<td>1990</td>
<td>0.3°C per decade</td>
<td>1.2°C</td>
</tr>
<tr>
<td>1995</td>
<td>0.2°C per decade</td>
<td>0.8°C</td>
</tr>
</tbody>
</table>

COUNTDOWN TO KYOTO

Three dates and associated references for official Australian climate scenarios are primary sources with an increasing articulation of uncertainties and caveats:

- the 'official' 1987-88 CSIRO scenario prepared for the Australian conference Greenhouse '87;
- the November 1992 Climate Scenario issued by CSIRO;
- the November 1996 Climate Scenario issued by CSIRO.

The ranges of CSIRO estimates of sea-level rise and temperature rise are sketched in Figures 1 and 2. Again the trend is to decreased impacts.

POSTPONING GREENHOUSE

From international and Australian 'official' scientific forecasts, there can now be no argument that the impacts in a chosen year will be smaller than those accepted at the Toronto Conference in 1988. They will also be smaller than feared at Rio when the treaty was signed.

A useful way to view this fact is to recognize that the impacts feared at Toronto (or Rio) are now forecast to occur much later than expected at Toronto (or Rio). In other words, a feared greenhouse impact has been postponed.7

Figure 3 shows the effect for estimates of the benchmark global warming by 3°C, which in 1988 was expected to occur by the year 2030, but is now expected by the year 2150, or 120 years later.

When the greenhouse treaty was signed, global warming by 3°C was expected to occur by the year 2100. So in the three years after the treaty was signed, the feared global warming was 'postponed' by 50 years, not by international mitigation of greenhouse gas emissions, but by the IPCC scientists refining their calculations as outlined above.

The strategic importance of this conclusion cannot be overestimated, because it was fear of large impacts within a generation or so that drove the Toronto debate and captured popular attention.

By way of encapsulating this, consider the example of the Australian academic who wrote in his greenhouse book in 1989 that by the time his son would be his age (i.e., in 2030) the world would be 3 degrees warmer. Some time ago I invited him to update that image, using the 1995 IPCC findings; but of course 'by the time my great-great-grandson is my age' does not convey quite the same sense of urgency as do the Toronto-based estimates.

It was only the threat of urgency and imminent doom that gave any credibility to taking early remedial measures before the scientific forecasts grow more reliable, without the sweeping uncertainties they still have in 1995.

CONCLUSION

Great uncertainties still exist, not only in the complex computer models and uncertainties about the roles of clouds, for example, but in even more fundamental issues. There is as yet no accepted explanation(s) for the fact that the annual increase in concentration of carbon dioxide, the basic building block of greenhouse fears, swings quickly between about 3 and zero, for a mean value of about 1.5 parts per million per year.8

Even so, the 'official' postponement of the greenhouse impacts feared when the treaty was signed in 1992 has given humanity an unexpected opportunity to refine policy responses and management of the greenhouse issue in step with improved science. The scientific uncertainties remain so vast that this opportunity must be accepted and used, rather than risk the vast consequences of ignorant haste.

One could summarize one view about the Kyoto conference by rephrasing the Toronto Statement to describe the current negotiations:

"Humanity is considering a premature treaty as an intended, globally pervasive experiment on energy use whose ultimate consequences, if met, could surpass a global nuclear war."

Notes 7-10:
8 Climate Impact Group, CSIRO. We recommend that the latest complete information be obtained direct from CSIRO: contact Barrie Pittack, Fax (03) 9239 4444.
10 See Figure 1b. IPCC 1995.
The New Greenhouse Science

JOHN R. CHRISTY

This is a heavily-edited version of Dr Christy’s paper; only the full version should be cited.

Dr. John R. Christy is based at the Earth System Science Laboratory at the University of Alabama.

OCTOBER 1997
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thousand years ago—when the Vikings colonized Greenland—temperatures were apparently higher than today. The eighteenth and nineteenth centuries were unusually cool: ice-skating on the Thames was a common recreation of Londoners; while Dickens’ novels speak of the winter snow and frozen landscape that characterize the first half of the nineteenth century. Unless natural variability is taken into account, naive comparisons between nineteenth- and twentieth-century records will exaggerate a presumed warming that is most likely not the result of industrialization. There is a consensus among most scientists as to general historical trends, despite the lack of true and consistent spatial coverage. While the temperature record prior to the 1800s is largely inferred rather than measured, scientists generally agree on the relative variations.

For the last several decades we have the record of surface thermometer measurements. Before 1940, the build-up of CO₂ was just beginning, and should not have affected the ‘global’ surface temperature to any measurable degree. Therefore, the much-reported rise in surface air temperatures in the last 100 years must largely be due to natural variations or some urbanization effects.

Because of the concerns about the surface-measured temperature record, the author, with Dr Roy Spencer of NASA, developed a global temperature data set based on satellite observations. The data set was first reported in Science in 1990, and in several articles since then that were also subjected to rigorous peer review. The method of basing global temperatures on the measurement of microwave emissions from molecular oxygen has been validated by two completely independent systems and has shown precision on monthly values of ± 0.04°C. The agreement between the tropospheric temperature measured at 97 balloon stations in the western Northern Hemisphere and collocated observations from the satellites is phenomenal, and gives confidence that both systems are reporting the actual temperature variations. The satellite temperature data set is the only one that is truly global and that uses a completely homogeneous measurement (i.e., uses a single ‘thermometer’ to view the entire planet and does not mix seawater readings with air measurements). It also measures the part of the atmosphere (the troposphere) which, according to the models, should be experiencing the greatest warming due to the enhanced CO₂ effect.

For longer-term variations, we have comparisons between large numbers of radiosondes and Microwave Sounding Unit tropospheric measurements. It is again clear that both systems are telling us the same story on atmospheric temperature variations since 1979. None of the long-term trends differs by more than ±0.03°C/decade.

Our agenda in this project was to create a data set of sufficient scientific quality that we and other researchers could discover something about climate variation. In our discipline, major advances have been made when new and reliable data sets of the atmosphere have become available. We did not know what the overall time series would show. What we found is that the lower troposphere (0–7 km altitude) reveals significant variability from year to year with a trend very close to zero for the past 18.5 years. The lower stratosphere (17–22 km) shows a strong downward trend related in part to the influence of volcanic eruptions in 1982 and 1991 and ozone depletion (ozone naturally warms the stratosphere). These data sets provide a fascinating glimpse into the nature of atmospheric temperature variability.

We have seen that the global temperature of the atmosphere has experienced sudden warmings and coolings over the last several hundred years. We actually understand very little about the reasons for these fluctuations, whose size is often larger and whose occurrence is more rapid than that predicted for CO₂ warming. Even though large fluctuations also occur in the satellite data set, the overall trend is essentially zero. Some of these “rapid” (interseasonal) changes in global temperature within the past 18.5 years are of the same magnitude as 50 years of model-projected warming due to the enhanced greenhouse effect.

Year-to-year fluctuations due to volcanoes and ocean temperatures affect the tropospheric temperature.

By allowing for these two effects, we can estimate global temperature without these influences. It shows that the trend over the last 18.5 years is about +0.06°C per decade (± 0.04°C)—considerably less than the average of the present climate model projections. The IPCC’s projected warming trend for this period from several models is +0.08 to +0.30°C per decade. The warming trend is small enough to be easily placed within the bounds of natural variability, but we can’t be certain about that. Humans could very well be having a slight impact on the global tropospheric temperature. Even so, no one can say whether this small trend is due to increasing CO₂ in the atmosphere, because variations on time scales longer than a decade (e.g., due to the North Atlantic Ocean circulation) are possibly affecting these results. We are just now beginning to acquire the necessary knowledge and skills to investigate the natural fluctuations that will be sure to continue and will be sure to cause major economic loss as time goes on.
The Howard Government's announcement that it will implement tax reforms in its next term of office creates the potential for reducing the high rates of income tax that have held back the growth of Australian industry. But will this potential be realized? There is a real risk that, rather than opting for a fundamental shift in the balance between taxes on income and taxes on consumption, Australia will end up shuffling taxes on consumption and handing out additional tax breaks to a few favoured industries.

The prospect of fundamental tax reform should take the wind out of the sails of the 'make-or-break' campaign by sections of industry to have the Government offer tax concessions to firms comparable with those offered in Malaysia or Ireland—or whichever country happens to be 'flavour of the month' in industry policy. After all, the Government can hardly be expected to agree to the rorting of the tax system that is implicit in granting concessions tailored to individual industries and companies, when it has a review under way that could result in a substantial reduction in disincentives to investment throughout the economy. In this environment, even managers of the businesses that would be likely to benefit most from increased tax concessions may well have doubts about the wisdom of continuing to push for increases in 'business welfare' that are achieved in the face of hostility from Treasury and thus vulnerable to being terminated in every subsequent budget.

But despite the Government's apparent good intentions, there is in fact a high risk that tax reforms will not end up making substantial changes to the balance between income and consumption taxes. Consider:

- Tax reform is being equated in public discussion with introduction of a GST at a rate high enough to allow a reduction in income tax, as well as to replace wholesale sales tax, Commonwealth excises and the franchise fees formerly raised by State governments.

- Some economists are expressing fears that a tax switch that could raise consumer prices would have a destabilizing effect on the macro-economy.

- The 'welfare' lobby, as usual, is showing more concern about the potential for some low-income earners to be disadvantaged by a switch to a consumption tax than about the potential for the vast majority of low-income earners to have improved economic opportunities in a more rapidly growing economy.

- When the going gets tough in introducing any economic reforms, it is tempting for governments to settle for half-measures, to buy off interest groups by offering concessions, and to bring in the spin doctors to make it all look respectable. In this instance, with the experience of 1993 in their minds, some Coalition politicians will be tempted to think that a tax package might be easier to sell to Ray Martin's audience with half a GST (exempting food, funerals, etc.), no switch in the balance of consumption and income taxes, and a few selective tax concessions to buy off business interests.

- How can the Government improve its chances of ending up with a tax reform package that is worth having?

My first suggestion would be to make it very clear at an early stage that the prime objective of the proposed tax reforms is to reduce disincentives to savings and investment rather than to broaden the indirect tax base. The main problem with the tax system at present is excessive reliance on income tax to fund social welfare and provision of collective goods. High income tax rates provide a disincentive to save (or to defer consumption), and a disincentive for internationally mobile capital resources to be invested in Australia. Australia's income tax rates are high by comparison with those which generally apply in more rapidly growing economies. The oft-quoted observation that some other OECD countries have higher income tax rates is of little comfort given the mediocre economic performance of those countries over the last 20 years or so.

Broadening the indirect tax base could indeed yield some benefits by reducing taxes on intermediate goods (assuming that reductions in petrol taxes are not ruled out on environmental grounds) and by levelling tax rates on different consumer items. But there are likely to be much larger gains to be had by reducing the taxes on savings and investment that are encouraging domestic residents to spend their incomes rather than to increase their net worth, and encouraging both domestic residents and foreigners to use their capital and skills in other jurisdictions in preference to Australia. A broadening of the indirect tax base will only help these larger gains to be achieved if it enables income tax rates to be reduced.

My second suggestion, which follows from the first, is that broadening the indirect tax base should be viewed as only one of the possible strategies that might be adopted to reduce disincentives to savings and investment.

An alternative option that may have merit would be to tax 'change in net wealth' at a lower rate than income that is consumed. This proposal would involve explicit recognition that there is nothing sacred about the concept of 'income' as a basis for taxation. Income is the sum of two quite different elements—'consumption' and 'change in net wealth'—and the only reason for taxing these elements at the same rate appears to be the criterion used by bushrangers, namely ability to pay at the time the tax is levied. Economic efficiency is certainly not served by the
current situation under which people are required to pay more tax over a series of years if they decide to defer some consumption (and thus increase their future income) than if they spend all of their income in the year it is incurred. It is, moreover, difficult to understand how anyone could argue that it is equitable to require some people to pay more tax than others merely because they are more thrifty.

The idea of converting the income tax into a consumption tax has been considered by various people in the past and often rejected on the grounds that it would require higher tax rates to be applied to the 'consumption' component of income and hence provide greater incentives for tax avoidance through under-reporting of income. This problem is less acute, however, if the 'increase in net wealth' component of income is taxed at a lower rate rather than exempted from tax. If it is considered that implementation of the proposal would be likely to add significantly to avoidance problems, there is always the possibility of combining it with the introduction of a broadly-based goods and services tax.

The important point that needs to be recognized is that if ways are not found to reduce the tax on savings and investment through general tax reforms, the pressure for this to occur through distortionary industry policy may become irresistible. If the objective of reducing tax on savings and investment cannot be achieved through increased taxes on consumption, further consideration should be given to introducing a greater element of 'user-pays' for services such as education and health. After all, the problem of high tax rates would disappear if governments stopped picking up bills for people who could pay those bills themselves without any hardship.

A legal system providing reasonable certainty and clarity in the law of civil disputes, with speedy and effective remedies at moderate cost, is essential to Australia's commercial competitiveness and democratic way of life. Reformers suggest changes to court procedure but pay scant attention to the ways laws are made. They may be likened to a restaurateur seeking to improve his business by changing the ovens and the waiters service, while ignoring gross faults in the chef, the food and the recipes.

By common consent our legal system is too complex, too costly and too slow. Reports like the Senate's February 1993 'Cost of Justice, Foundations for Reform' and the Australian Institute of Judicial Administration's 'Cost of Civil Litigation' report of a year earlier, emphasize the high cost of going to court. The law's delays and complexity are criticized expressly and by implication in the many reforms of court rules introduced by State and federal judges. Discussion papers currently circulated by the Australian Law Reform Commission (ALRC) calling for changes to our adversary system of litigation, draw attention to the system's complexity and slowness.

• Judges have designed reforms to reduce delays; first through systems of case management to make parties follow a strict timetable, and second by pressing parties to settle their cases by agreement through compulsory conferences and mediation. These reforms have expedited the handling of cases and more parties are prepared to settle, without trial, through these alternatives. But these new procedures increase the cost of litigation for those who want a trial. This can be an advantage to the wealthy litigant, leaving the less well-off to accept his mediated 'half a loaf', because he cannot afford to go to trial for the whole one. Strong promotion by judges of alternative procedures suggests that ordinary trial procedure can be unjust.

• Judges, and often the ALRC, view the system from inside, failing to see the whole picture. The certainty and clarity of the laws our courts are called upon to judge must be a factor influencing the number of disputes that are brought to court and the ease or difficulty of determining them. More importantly, reasonably certain and clear laws tend to favour democratic controls. By contrast, uncertain and complex laws lead to more requirements for judicial determination of their meaning, thus effectively taking much lawmaking away from parliaments and giving it to unelected and irremovable judges.

The decisions by the High Court in its Mabo and Wik rulings, both claimed to be based upon unwritten or common law, have created much uncertainty which will tend to deter people from investing or doing business in Australia. The Mabo decision in fact changed the common law as generally understood for hundreds of years.

The 'Indicators' in the IPA Review of March 1997 show that Australia's mining companies are increasingly investing overseas, and that from a wide range of prospective countries, they rate Australia as one of the riskiest for land claims.

The Wik and Mabo cases are but two of the latest High Court decisions to shake public confidence in the soundness of its judgments.

The recent State franchise fees case has disrupted the business of State governments and private enterprise. The High Court has effectively changed the definition of an excise, for the second
Due in recent years, thus wrecking State taxing powers overnight and rendering illegal much State revenue collection. Well may we ask with then acting Commonwealth Solicitor-General Dennis Rose—is the High Court a law unto itself? (The Australian, 28 November 1994, page 11.)

Professor Geoffrey Walker has shown in his book The Rule of Law how the exponentially increasing volume of Acts of Parliament ('legislation') threatens the rule of law by increasing the power of the bureaucracy, confusing the public and lowering the quality of adjudication by the courts. The annual volume of federal legislation rose from 42 pages in 1909 to 2747 in 1985. In 1995 it filled 5626 pages. Much legislation is passed to amend existing Acts of Parliament, often several times a year. The position is little better at State level: the Stamp Duty legislation in Western Australia, for instance, was changed eight times in 1996.

Changing laws create: more rules about how we must live and do business; new penalties for failing to observe them; new bureaucracies to administer them; new taxes to fund their administration; new legal opinions to explain their meaning; and new court cases to clear up the disputes arising from differing interpretations. Parliament sitting about one day in every five has not significantly increased its sitting time since earlier years when it had to deal with annual legislation consisting of a few hundred pages.

As Walker shows there is no popular demand for ever increasing legislation; the demand comes from the bureaucracy. Roman historian Suetonius once criticized Emperor Claudius for proposing a law to regulate farting. He jestesd, but many of our bureaucrats seem to want laws to regulate every aspect of our lives. Many laws are written badly, as can be seen from our income tax, social service or migration legislation. The fact that our legislation is prolix, poorly written and subject to constant amendment shows a lack of quality control at both ministerial and parliamentary level. In taxation law we must rely more and more on departmental rulings on what a particular provision means.

We must look outside our legal system to see how the power of judges and bureaucrats can be controlled in the public interest. Our system is based on the English common-law system, found only in England and many former British colonies. By contrast a civil-law system, based on that of France or Germany, has been adopted by most non-English-speaking countries, including both former French and German colonies, and other countries which adopted it by choice. Scotland has a hybrid civil- and common-law system. In England, the original home of the common law, the civil law-based system of European Union law overrules any conflicting British laws, while Britain's courts must follow the rulings of the European Court of Justice on European Union law.

We must recognize that we too are not tied to the common law. There is advantage to be gained through the use of comparative law to learn how other legal systems cope with the same problems that we have, and by adapting the best and most efficient solutions ourselves. We may learn from it that our system of civil practice and procedure can be replaced by a better one.

Legislation, reinforced by constitutional amendment if necessary, can make our judges subject to the law, as in civil-law systems, instead of leaving our law subject to the judges. While civil-law systems have not eliminated judicial lawmaking entirely, they contain it within much stricter bounds than we do in Australia. The High Court's role as constitutional court could be retained, but if a limit of three years from proclamation were imposed as the maximum time within which a constitutional challenge to a law could be commenced, we might do much to limit the mischief that changing fashions in judicial philosophy create.

By codifying our laws, as occurs in civil-law systems, we could practically eliminate unwritten laws as a significant factor in our legal system. This would create an opportunity to exclude many unnecessary laws from our new codes. We could refine and enforce existing (but sporadically-used) guidelines for the use of plain English in writing all our laws.

All prospective laws could be critically compared with their equivalents elsewhere to ensure that we are not throttling liberties or driving more business offshore. Changes to companies legislation in the 1980s and 90s caused some businesses to relocate in Singapore or Malaysia where company legislation is based on our 1960s uniform companies acts. The practice of amending an act several times in the same year could be ended by requiring a special resolution of both Houses of Parliament when it is proposed to amend an act more than once in the same year.

To achieve the necessary reforms, we must recognize that our colonial common law culture derived its strength from copying England. The time for that is past and fly-blowen legal ideology from Harvard is no substitute. A wider knowledge of the legal world is necessary for our increasing international business.

Legal education can give the lead. We can improve our system by developing a comparative law culture, where both comparative law and laws of other legal systems are taught in our universities to the same extent as in the advanced countries of the world. These subjects are taught, for example, in every law faculty in the former Federal Republic of Germany.

We also need an institute for advanced legal studies. We can learn how to establish one from existing institutes which have them like the Max Planck Institute in Germany, and London University. Principally we must develop a culture where the legal system is seen as being there to serve the people by being part of a democratic system and efficient economy for the twenty-first century.


Patrick Gethin practised law in Western Australia for twenty years. He is a member of the British Institute of International and Comparative Law; and was author of The Power Switch at Robe River, AIPP, 1990.
Zealotry in Environmentalism

The days of more extreme irrational behaviour and rampant emotionalism associated with the environmental movement in Australia appear to have passed. The dangerous practice of spiking trees deliberately to injure forestry workers, for example, is now just an unpleasant memory. Yet there remains within even the more respected wing of environmentalism a petulant intolerance of anything that threatens to contravene their accepted doctrine.

Such bigotry is not, of course, confined to environmentalists. It gained ground in the decade 1985–1995, exacerbated by political pandering to special interest groups, and today remains a lingering impediment to balanced government. Despite the ‘one nation’ shibboleth of the early 1990s, the government of the day chose to divide the nation on many issues: one side was cultivated and patronized while scorn and vitriol were poured on those who dissented. A distinctly sycophantic media joined in with synthetic moralizing. The result was to place unprecedented power in the hands of pressure groups who, not satisfied with being heard, insisted on and often obtained compliance from government; those who disagreed were accused of arrogance and insensitivity to the needs and concerns of the community—such needs and concerns of course being as defined by the pressure group.

In his 1990 prize-winning essay 'The Class That Cried Wolf', Sev Sternhell asserts that 'Greenies use scientific data like lawyers, to make a case; and not like scientists, to discover what is the case'; he decries their dishonesty, exaggeration, distortion and reliance ‘on the ignorance of their followers, of the public at large, and of élites and politicians'. Hard words, maybe, and perhaps applicable only to fringe activists. Yet the bullying tactics of the early 90s and an associated media campaign affected mainstream environmentalism and resulted in some attitudes being adopted and infringements railed against that were of dubious validity. It would be reassuring today to suppose that before causes were endorsed by the likes of the popular Australian Conservation Foundation, their validity would first be critically assessed. But the tendency to self-righteous obscurantism in many environmental organizations and their characteristic disregard for rational contrary argument makes this an uncomfortable hypothesis.

Recently David Richmond, the Director-General of the Olympic Co-ordination Authority, complained about the negative attitudes and unsubstantiated assertions from green groups who proclaimed that previously unknown and dangerous toxic waste dumps existed on Sydney Olympic sites. He declared that their technique was not to question but always to accuse, to challenge authorities and to assert that conspiracies to cover up mistakes and downright malpractice had occurred. They were quite unpertinent about the damage such fabrications did to Australia’s reputation overseas. Both Greenpeace and the government-funded Green Games-watch groups were involved.

Only a week later, Frank Devine, stung by the uncompromising dogmatism in U.S. Vice President Al Gore’s recent evangelical statement on environmental diplomacy, cited green zealotry in his column in The Australian newspaper. He noted that for some the adoption of an environmental cause was a means to an end. For Gore that end was political ambition, for an unnamed green spokesperson it was to sabotage development, and for a project officer of the Wilderness Society it seemed to be for the sheer joy of demonstration and protest. Environmentalist ranks have long been swollen by opportunists and dreamers seeking a new world order who capitalize upon and extrapolate genuine concerns.

The modern era of zealotry in environmentalism appears to be characterized by apprehension with which changes associated with any developmental activity are regarded, the fervour with which views are held, and the prediction of a calamitous future—unless some specified action is undertaken. Yet these are not new features in intellectual debate.

On apprehension, in 1873 John Stuart Mill, no less, expressed foreboding—for statistical reasons—that the world was running out of beautiful melodies, and that Mozart and Weber had skimmed what was left of the cream. Hardly were the words off his pen than Grieg, Tchaikovsky, Strauss and so on proved him wrong. Beware of those who stray outside their field! On fervour, around the turn of the century the Irish poet W. B. Yeats, in his poem 'The Second Coming' wrote 'The best lack all conviction, while the worst/Are full of passionate intensity'; while, in 1958 Bertrand Russell rather mischievously suggested that an opinion needed to be held fervently only if it were doubtful or demonstrably false. Beware of ardent rhetoric! And on prediction, in 1965 Karl Popper, after noting that the general public expects every genuine scholar to be a prophet, somewhat tongue-in-cheek said 'Soothsaying should be kept where it belongs—in the fairground. Whether a prediction becomes true or not is not a matter of method, wisdom or intuition; it is purely a matter of chance'. Beware of false prophets!

It was the nineteenth-century anarchist Mikhail Bakunin who first expressed concern about 'the tyranny of the minority over the majority—in the name of the many and the supreme wisdom of the few'; and this describes the direction taken by recalcitrant environ-
mentalist. In the 1860s, there was a struggle over the form of the developing new socialist doctrine between Marx, who advocated a dictatorship of the proletariat, and Bakunin, who advocated a political spectrum. But of course this has fallen on whose shoulders the burden or to the attitudes of those with a work ethic on whose shoulders the burden of providing increased disposable wealth required for ever increasing social welfare. Hence the much-needed new governance, adopted across the political spectrum. But of course this has its own problems. Doctrinaire management appears to have gained ascendancy over creative execution; increased competitiveness shows signs of compromising genuine co-operation; and progress is being achieved at the expense of drawing down the technical and scientific potential that underwrites it — with no good mechanism for replenishment. But most of all, of course, it has had the unfortunate effect of increasing the ranks of the unemployed and unemployable.

At the same time that these stressful changes are occurring and stimulating social insecurity, an increasing proportion of society is becoming frightened at an obvious deterioration in the wider bio-physical environment. Is it any wonder then that those who like to describe themselves as social democrats are looking for a new fulfilment, and see it not in the merged ranks of classical conservatism or socialism but in a resurgence of a form of eco-anarchism? This, at least, is the view of Ulrike Heider in her survey of anarchism and its appeal to those with ecological concerns. But the weakness of Heider's analysis is the incongruity of anarchistic environmentalists appealing to government to enact strict environmental legislation. Nevertheless she refers repeatedly to the lifelong American radical and pioneer environmentalist Murray Bookchin.

In the late 1960s Bookchin published an essay entitled 'Ecology and Revolutionary Thoughts' as a manifesto for the ecological movement. In it he cites damage to the environment by a variety of actions but ascribes the main cause to bigness and centralization. He considers that ecological ideas of natural balance applied to society provide the clue to how to stop the despoliation of the planet and the end of humanity. Later he became an adamant critic of irrationalism and eco-fundamentalism, condemning them for allowing a decline in their own self-confidence to lead them to attack rational behaviour and human development. He calls them anti-humanists, and sees them as myopic, longing for an imaginary past, an environmental utopia unspoilt by humanity.

At present eco-fundamentalism in Australia is rare, with the possible exception of some Greenpeace activists, but the longing for an imaginary pristine past may motivate many devoted to environmentalism. Nevertheless those of us who value both the environment and modern society should realize that many radical environmentalists advocate much more government intervention and much less personal freedom. Radicalism is generally related to dissatisfaction with the status quo and an appeal for basic political and social changes. With the collapse of authoritarian socialism it is understandable that, for many psychologically drawn to utopian dreams of one sort or another, environmentalism should be an alternative doctrine. Socialism and environmentalism share a fundamental fear of human nature and a belief that widespread regulation is needed to control exploitation. So soon after the collapse of the old union of socialist republics which exposed the deficiencies of centralized planning, these zealots see even more centralized planning and world government as the ultimate solution.

Notes

3 Jeff Bennett (ed.), Tall Green Tales, IPA Current Issues, September 1995.

Dr Brian Tucker is a Senior Fellow of the IPA and Director of its Environment Unit.

IPA

Realism, Human Existence and the Environment

This monograph, based on an address by IPA Senior Fellow Dr Brian Tucker at the 1997 World Meteorological Day, argues that current global strategies to reduce greenhouse emissions are probably unnecessary, draconian, and certainly act as a counter to economic development. He argues that the most realistic policy would be one of planned adaptation, which fits with the more scientifically-based approach of assessing the policy change, not the current contradictory notion of sustainable development.
MOSTLY AUSTRALIAN
The Internet is dominated by the United States. That is, after all, where the network was first created. But, considering our tiny population, Australians have a marked Internet presence. While I would be the last person to push a 'Buy Australian' policy, much Australian Web content needs no patriotic promotion. It's quite able to compete with anything, anywhere.

BEFORE AND AFTER
Once upon a time there was a party, much used to governing, that had been in opposition for a startling thirteen years. Then, in a magical time in March 1996, the Opposition became the Government.

What did that Opposition promise? What has that Government delivered?

Well, the full set of policies for the Liberal Party prior to the election is available at:


The full 1997–98 budget papers—one test of a party's implementation of its promises—are at:


PRIVATE DOCTORS OF AUSTRALIA
As I stand on the threshold of that mysterious realm known as 'middle age', I am gratified to find myself still capable of surprise—and that there are still things that do surprise.

Before recently casting myself onto the tempestuous oceans of the writing market, I spent over a decade on the 'other side'—as a bureaucrat in Australia's swollen government health-financing sector.

While I managed to retain (indeed, my experiences therein confirmed my commitment to) my belief in individual freedom generally, and market freedom in particular, my soul was perhaps a little tarnished with cynicism with regard to doctors' organizations. Adam Smith's dictum had come to seem particularly apt: People of the same sort seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.

When, as a result of one of my earlier IPA Review columns, I received an email from the President of something called 'Private Doctors of Australia', my initial feeling was: 'Yeah, sure. This lot will believe in free enterprise all the way—unless it might reduce their short-term profit.'

Still, I have a duty to IPA Review readers. I went to the following URL (yes, we shall educate you: URL stand for Uniform Resource Locator or, in English, 'address'):


Shortly thereafter I fell off the excuse for an office chair upon which I sit. These private doctors believe first and foremost not in getting along with government, but in ensuring that they get the best possible deal from the tables of the Schedule of Medicare Benefits, not, even, that the patient receives the best possible medical care (although this is implicit in what they do believe in). What they believe in is the sanctity of the contract between the patient and the doctor.

My goodness, a doctors' organization of principle!

Amongst other things, you will find at this site links to a Randite speech against socialized health care and, yes, the Lott and Mustard study showing that legalized carrying of firearms saves lives.

REPUBLICAN OR MONARCHIST
In the very first email I received as a result of doing these columns a reader took me to task for using OzEmail as my ISP (Internet Service Provider). 'No conservatives use OzEmail,' it was pointed out, 'as Malcolm Turnbull is one of the owners.'

Since rather than being conservative, I am somewhat extreme in my support of free enterprise, I do not make my purchasing decisions upon patriotic grounds, nor upon political grounds, but solely on the grounds of the quality of the product and its price. And, so far, this ISP has suited my particular needs (this is not an advertisement—there is no reason to think that anyone else has precisely the same needs as me).


Still, Mr Turnbull does have some prominence in the constitutional debate about which, I fear, much will be heard over the next few years. Being an issue somewhat tangential to that of personal and economic freedom, I think we should report all related Web sites.

For starters, the Monarchists (or the 'if it ain't broke' crowd) may care to look for re-inspiration to the Aus-
ustralians for a Constitutional Monarchy home page at:
http://www.mq.edu.au/hpp/politics/acm.html

or at the Monarchist League in Australia home page at:

Those inclined the other way may care to examine:

THE COMPETITION
The Institute of Public Affairs is not, of course, the only Australian body thinking about free enterprise. The Centre for Independent Studies publishes its own quarterly, Policy, and conducts its own valuable studies on free-enterprise answers to Australian problems.

And the CIS also has its own Web site at:
http://www.cis.org.au

(Thanks to reader Gillian Lord for this address and quite a number of others. And also to Greg Lindsay, CIS Executive Director, who also emailed this to me. It's good to see that the competition is keeping an eye on us.)

In the last issue, I mentioned a bookshop in San Francisco from which the liberty-leaning can obtain congelial and informative books. Now I'm kicking myself. The CIS has links to Commentary Books in Sydney. And Commentary has its own Web page, complete with an impressive search facility.

You know, it's galling. A quick road test revealed that most of the books I recently ordered from overseas (and which took slightly under three months to arrive) were available from Commentary. I've just fixed off my order for Hayek's The Fatal Conceit and Rand's We the Living. Yes, I could have ordered directly from the Web page, but a secure (that is, encrypted) link is not available. I am not comfortable entrusting my credit card details, insecurely, to the multiple computers that sit between me and the sites I am accessing. That is this site's only deficiency:

JULIAN SIMON
Okay ... we are talking about the Internet. Enough of Australia. There is a whole world out there! Let's look at some of it.

The IPA Review does a wonderful job on debunking many of the most extreme claims of the environmental lobby. But perhaps the master of environmental realists is Julian Simon, Professor of Business Administration at the University of Maryland and editor of a massive book, The Ultimate Resource, that took on and demolished all the claims of environmental activism.

Many of Professor Simon's writings are available at:
http://www.inform.umd.edu/EdRes/COLLEGES/BMGT/ .Faculty/Simon/

including the full text of his latest work, The Ultimate Resource II and The Hoodwinking of a Nation. He has written on other subjects as well, including dealing with depression (the personal kind, not the economic kind) and teaching statistics. These works are also available at this site.

LIBERTARIAN ALLIANCE
While one tends to think of libertarian sentiment as chiefly residing in the United States, one of the most extensive archives of hard-line writings on freedom emanates from the United Kingdom's Libertarian Alliance. This organization's approach to any political issue is very straightforward: it falls always on the side of individual freedom.

The Libertarian Alliance has published hundreds of papers on a wide range of public policy and intellectual issues, including history, philosophy, politics, culture, religion and, of course, economics. Being hard-line, the positions taken can be startling: defences of the right to produce and use pornography written by female pornographers; to engage in unusual sexual practices written by those who do; to use and sell drugs. There is even a paper engagingly entitled 'A Rational Defence of Boozing against the Anti-Alcohol Killjoys', by an ex-teacher of philosophy, '... which is a defence of the freedom to drink, and the freedom to get drunk, from the point of view of someone who enjoys drinking, enjoys drinking vast quantities, enjoys getting drunk, and in fact enjoys getting absolutely wrecked.'

http://www.digiweb.com/igellard/LA/index.htm

(I must proclaim an interest here: I have assisted preparing some of the Libertarian Alliance's documents for Web publication. My interest, though, is not pecuniary since, sadly, the work was voluntary.)

A SHORTCUT
All these sites may be accessed from links on my own Web page. Go to:

and from there you can reach any of the above. The Internet being the dynamic environment that it is, addresses sometimes change. If you find you can't access one of the sites from the address printed in this column, try the link from my page, which I'll endeavour to keep up to date. If that still doesn't work, email me on scdawson@iname.com. I would welcome advice from readers on any other treasures they have found.
State of Play:
Tasmania—a State in Crisis

TASMANIA is a State in serious distress. The State's considerable raw material resources have been progressively quarantined by the extension of the national park system and the World Heritage Reserve. The State's already fragile economy has been damaged by the wider Australian political agenda. In 1982 the federal Opposition, in search of green votes, promised to legislate against the construction of new hydro-electric dams in the State's national parks. Later, Treasurer Keating torpedoed the plan for a world-scale pulp mill. And within the State an anti-development undercurrent, centred around the green politicians Senator Bob Brown and State MP Christine Milne, has further sabotaged the State's ability to maintain the economic growth necessary to sustain a future for its citizens.

Yet successive Tasmanian governments have hardly needed the handicap of Commonwealth Government and irrational politics to create the impasses in which they find themselves. The parlous condition of the economy owes much to a long tradition of irresponsible spending and deficit financing policies, over-regulation and over-government generally.

The prospects remain poor. The Tasmanian Government is unable to balance its budget. Political parties show little sign of understanding the depth of the State's problems. They see no sign that the electorate is willing to accept the need to put the State's finances on a sustainable footing. Meanwhile, the State is losing population and wealth relative to the rest of Australia.

AUSTRALIA'S LACK OF BLIGHTED REGIONS

Australia has never had to resort to the major special programmes for ill-named 'development regions'. Unlike in the UK with Tyneside and Clydeside, the US with Appalachia, Italy with the Mezzogiorno, no Australian State has slipped so far behind the rest of the country as to justify special incentives to arrest its relative decline.

Arguably, the fiscal equalization that is central to the constitutional sharing of powers is one reason for this. But individual States do exhibit a variety of economic outcomes. This is demonstrated in the resurrection of Queensland from its 1950s Cinderella status, surging growth in Western Australia and continuing decline in Tasmania.

Tasmania is presently the State facing the most formidable obstacles to maintaining pace with an Australian economy which itself is hardly a beacon in the Asia Pacific region. The Nixon Report, commissioned jointly by the Prime Minister and the Tasmanian Premier, points out that Tasmania is growing more slowly than any other State. Income per capita was less than 80 per cent of the Australian average in 1994-5. Population is falling, unemployment at 10.8 per cent compares with 8.8 per cent for the nation as a whole, and real gross product has increased at less than a quarter of the rate experienced by WA and Queensland over the past decade.

DEBT LEVELS

Tasmania's problems are not new. As Nixon points out, the roots of the difficulties go back many years. The Lockyer Report of 1926 drew attention to the State's high debt incurred through excessive road expenditure and a bloated government; Lockyer said Tasmania's taxation was the highest in the Commonwealth, and its foray into creating a State-owned shipping line had been an unmitigated disaster. Further reports by Callaghan (1977), the Centre for Regional Analysis (1987) and Curran (1992) echoed many of these comments and stressed the need for Tasmania to balance its budgets and to focus development on its strengths in forestry and raw material processing.

This legacy of over-ambitious expenditure and government intervention in the economy has created a high level of debt, which is seriously compounding the immediate problems. For the government sector as a whole, debt stands at $3189 million. In per capita terms, at $6970, it is considerably above that of other States. These debt levels stem from the repeated budget deficits of the 1980s and earlier. Deficit financing still continues, and the State's forward budget estimates expect it to persist.

In real terms, debt levels have changed little since 1990. Chart 1 indicates the overall position of the States.
Over 40 per cent of the debt is General Government debt (with most of the rest being owed by the HEC). Annual interest costs to the Government are over $300 million.

EXPENDITURE LEVELS
In its submission to the Nixon inquiry, the ANZ Bank encapsulated the deficiencies of Tasmanian government when it said that Tasmania is the only State in which taxpayers are paying above-average levels of State taxation and receiving, in return, below-average levels of State services. Tasmanian Government expenditure levels are considerably above those of other States. They comprise nearly 25 per cent of Gross State Product (GSP) compared with an average of 18 per cent for the other States. Similarly, the State’s outlays, at 18.6 per cent of GSP, compare with 13 per cent for the other States.

The Commonwealth Grants Commission attempts to standardize spending and taxation across the States. In terms of expenditures, Tasmania remains a higher spending State than Western Australia, New South Wales and Queensland. If the State were to reduce its spending levels to the level of those in Queensland, savings of 10 per cent or $200 million per annum would accrue. Tasmania’s situation vis-à-vis that of other States is shown in Chart 2.

In some big-ticket expenditure items—law and order, and health, for example—Tasmania is among the more frugal. But the State has shown rapid growth in child welfare and family support—almost threefold between 1991-92 and 1995-96—and is now 25 per cent above the all-States average. If Tasmania tailored its spending to that of Queensland, some $50 million on this item alone could be saved.

Similarly, the State is a very big spender on education. By adopting Queensland practices, some $60 million could be saved. This is a particularly relevant indicator, since measured outputs of the quality of Tasmanian education—for example, in terms of retention rates to Year 12—are considerably below the Australian average. This is in spite of Tasmania’s having fewer students per teacher and higher per student spending than all jurisdictions except the ACT and NT.

Perhaps in anticipation of the Nixon Report, the Tasmanian Premier, Mr Rundle, on 10 April 1997, issued a comprehensive series of reports together with an overview ‘Directions Statement’. This was clearly intended to prepare Tasmanians for some hard decisions. It said far less about belt-tightening, however, than it did about increased spending on education, information technology, and technical programmes for the fishing industry.

In the ‘Directions Statement’ and the subsequent Budget, the Government sees a measure of privatization of the Hydro as a means of financing its on-going spending and new initiatives. In this respect, the 1997–98 budget is particularly illuminating.

The State is continuing to increase its debt: by $32 million in 1996–97 and a further $34 million forecast for 1997–98. Adjusting for injections of funding from the sale of the HEC, debt increases of $40–50 million are estimated for all of the years to 2001.

Outlays growth has been reined in, with current outlays in general government budgeted to increase by a mere $2 million in 1997–98. But this is insufficient to reduce debt levels.

Clearly Tasmania is treating its adverse financial situation with less than the urgency that it warrants.

REINVIGORATING THE ECONOMY
The Government’s key asset, the Hydro, is earmarked for partial privatization. The fact that it is a partial privatization itself indicates a lukewarm response; and the expressed wish of the Government to avoid selling the generation assets represents a victory of sentiment over reality.

Privatization makes good sense in that it subjects businesses to competition and allows a better use of public savings. With these matters in mind, the Nixon Report advocated selling the whole of the HEC; ensuring that it was sold in parcels that would allow competition especially in generation. The report demonstrated that generation could be broken into five separate businesses; the transmission could be spun off as a further business; and the distribution/retailing could be divided into two businesses.
All aspects of the business should be opened to new competitors, though in the initial stages this is only likely to take place in retailing. In this way, the utility would be divided so that the full play of commercial rivalry is allowed to operate.

A high-voltage link across Bass Strait would allow the complementary Victorian and Tasmanian systems to be unified. This would offer advantages to Tasmania because its hydro resources can be immediately activated and made available for reacting to peak needs. These hydro resources knit in well with the brown coal-based Victorian generation assets, which are slow to bring on line but extremely cheap when in operation.

The rationale behind the Nixon proposals was to allow for the liquidation of debt while improving the efficiency of the economy and ensuring low-cost power. Nixon was especially concerned about the prospect of the Tasmanian Government selling off its one major asset and embarking on a subsequent spending spree and he advised the Government to place impediments in the way of itself and its successors to avoid this.

The Premier's 'Directions' proposals and the subsequent budget are deaf to this advice. The Tasmanian Government, as well as seeking to avoid the privatization of the key parts of the HEC, treats the funds derived from the privatization as a windfall to be partly used for a further spending splurge.

As a community, Tasmania might always benefit from the assistance of Commonwealth funds; but accepting its status as a mendicant State is unlikely to resurrect its economy. A comprehensive privatization programme, redoubled efforts to reduce government spending, resolute efforts to reduce spending, and resuming a development path which has been temporarily closed off by internal and external anti-growth and green forces are the necessary requirements.

Notes

Dr Alan Moran advised the Nixon Inquiry on electricity matters. He is also the Director of the Deregulation Unit within the IPA in Melbourne.

‘Ecosystems’ on the Move

WARREN LANG

When I use a word,' Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean—neither more nor less'.

Q: When is an ecosystem not an ecosystem?
A: Whenever we, their champions and custodians, say so.

No, it's not a New Age version of Alice in Wonderland, but it could be. Definitions are potent things. If you can change them, you might become eligible for a benefit from which, under public policy, you were previously excluded. If you can invest a familiar word with a slightly different meaning, you might be able to take public policy in a new direction without anyone noticing that the rules of a programme have been changed. This could mean spending government money in new and rewarding ways. It could also be a subtle contribution to public debate about environmental policy that has the effect of aiding one side of the argument over the other.

What is an 'ecosystem', anyway, and what does it matter? The Commonwealth Government released the 'State of the Environment' report last year to considerable fanfare. The report describes itself as 'an independent report presented to the Commonwealth Minister for the Environment by the State of the Environment Advisory Council'. By any yardstick, the report is a major statement about the nature and condition of the Australian environment.

The report devotes a whole chapter to Biodiversity, and the concept of 'ecosystem' features prominently in that chapter. A glossary in the report defines an ecosystem as:

a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

That sounds like a pretty good definition. It captures the notion of species interdependence that has made the concept of ecosystem such a powerful one in efforts to capture the public imagination about environmental issues. The concept embodies the idea that while the actions of man may only be directed at one species or group of species (e.g., trees), other species are affected, because they are part of the same interdependent community. The Concise Oxford Dictionary definition is similar:

a system of interacting organisms in a particular habitat.

So is the Macquarie Concise Dictionary definition:

a community of organisms, interacting with one another, plus the environment in which they and with which they also interact, as a pond, a forest.

The notions of interdependence and interaction seem quite central to these definitions. If, by means of some kind of verbal surgery, it was possible to remove the notion of interdependence and interaction, what would be left? Possibly just the idea of a 'plant community' or a 'vegetated area' or a 'collection of plants'. A garden is a collection of plants, but probably not an ecosystem, because the only influence that brought the constituent species to...
together was the act of the gardener in planting them. There is no basis for attributing interdependence or interaction. Once the notion of interaction and interdependence is taken out, the most closely-related scientific concept in current usage seems to be 'biogeographic region', which the 'State of the Environment' report also defines: 'an extensive region distinguished from adjacent regions by its broad physical and biological characteristics.' The report identifies 80 terrestrial biogeographic regions and 17 marine regions in Australia and surrounding waters.

Other systems for classifying vegetation types have been developed for use when higher levels of detail or discrimination have been needed. In the East Gippsland Regional Forest Agreement, for example, the Australian Heritage Commission identified 44 'ecological vegetation classes' in an area that, in the State of the Environment Report, is shown as biogeographic region No. 63—'South East Corner'.

Developing classification systems (or taxonomy) is an important and challenging scientific endeavour. It is the science by which we give names to plants, identify new species, and bring discipline to scientific research.

'Ecological vegetation classes' and 'biogeographic regions' are perfectly legitimate taxonomic frameworks for imposing conceptual order on the diversity of nature. The only problem is, they don't have much sex appeal. They are dry clinical terms (as they should be) and they convey not one scintilla of romance or excitement. In any appeal to the emotions, only one of the following cuts any ice:

'Save the ecosystem'
'Save the ecological vegetation class'
'Save the biogeographic region'

Perhaps the reason the second and third don't quite capture the imagination is that they don't convey the same sense of fragility and vulnerability that is implicit in the notion of species interdependence and interaction of 'ecosystem'.

'Ecocemtysm' is not without problems of its own, though. Firstly, despite the intuitive understanding it is certainly possible to have of species interdependence and interaction, achieving a scientific understanding in order to demonstrate a supposed interaction or interdependence is something else again. Biological and ecological research hasn't advanced that far. Very few, if any, such interactive systems have been identified. If the term ecosystem could only be used in respect of those few, it would have a very limited use.

Perhaps this is the difficulty that lies behind the complaint in the 'State of the Environment' report that:

In contrast to species, ecosystems have no nationally agreed classification system and more importantly for this report, no agreed listing of the extent to which they are threatened. It is also difficult to specify when an ecosystem is extinct. How many components have to be lost and what degree of alteration of processes is necessary to make such a proclamation?

The situation described here may go some of the way to explaining why, for example, not a single endangered ecological community has been able to be listed under the Commonwealth's Endangered Species Act.

According to officials, there have been some nominations, but the main reason, they maintain, is that the regulations were incomplete, and could not be applied.

Because of the scientific difficulty of using 'ecosystem' as a tool of taxonomy, the word has largely been relegated to general discussion about the environment, where it seems to be interchangeable with 'ecological community'. It occurs in general propositions about the direction in which public policy should be developed, but never in any discussion of a particular, distinct, and precisely-located community of interdependent species.

At the general descriptive level, the term is used in relation to a 'forest', 'coastal wetlands', 'temperate woodlands', etc., but the use of the term 'ecosystem' at this level does not depend on any precise or comprehensive understanding of the interactions that are presumed to occur between the members of those biological communities.

How could 'ecosystem' be made more useful? Could any way be found to preserve its emotional power while improving its taxonomic efficiency?

Two recent initiatives by the Commonwealth Environment portfolio appear to be attempts to do just that. The first was revealed on 9 July, when the Minister for the Environment announced that the regulations under the Endangered Species Act were being changed. The changes concerned the procedures for listing 'endangered ecological communities'. In future, an 'ecological community' (or 'ecosystem') will simply be:

an assemblage of native species that inhabits a particular area in nature, (not an integrated assemblage as it was in the previous regulations.) On any dictionary definition, an 'assemblage' is simply a collection of things.

As well, the new regulations provide that the proponents of a listing of an 'endangered ecological community' will no longer be required, as they were under the old regulations, to give a description of the processes by which the components interact. In future, they will only have to give a description of the ecological community that is suffi-
cient to distinguish it from any other ecological community, by reference to the processes by which its components interact, if those processes are known. If the processes are not known, it seems they can be assumed to exist anyway.

The changes remove any obligation to demonstrate the species interdependence that is believed to characterize the ecological community (or 'ecosystem'), and thereby renders the term capable of much easier and wider use. Ecological communities will be able to spring up on all sides, generously fertilized by the change to the definition, which allows them to keep their secrets. 'Ecosystem' has moved closer to 'ecological vegetation class', and lost none of its emotional fizz.

The second initiative was the release of revised guidelines for the National Reserve System, on 17 June. These guidelines were approved by ministers of the Australia New Zealand Environment Conservation Council in June. One of the agreed principles for the National Reserve System, according to the guidelines, is:

Ecosystems are the primary component of biodiversity addressed by the National Reserve System programme in determining the comprehensiveness of the National Reserve System.

The glossary included in the guidelines defines an ecosystem as:

a mapped unit comprising a description of floristic composition in combination with substrate (lithology/surficial layers) and position within the landscape, and including other components of the biota where available.

This would appear to represent a complete liberation of 'ecosystem' from the constraints of science. It's an 'ecosystem' if you can locate it on a map, specifically a map with a scale from 1:100,000 to 1:250,000.

This definition not only escapes the rigours of scientific understanding, it incorporates the same convenience of never having to leave your desk that is built into the processes used by the Australian Heritage Commission for identifying the national estate in forested areas. By this definition, 'ecosystems' cover the landscape coast to coast, but species interdependence is nowhere to be seen. At the level of resolution likely to be achieved using a 1:100,000 map, these 'ecosystems' seem likely to be similar in scale to the 44 'ecological vegetation classes' discerned in East Gippsland by the Heritage Commission. But these 'ecosystems' retain the sex appeal that ecosystems are supposed to have, and 'ecological vegetation classes' never will.

The changes may not seem important, but they matter in four ways:

- Participants in the policy debate who wish to make use of the emotive power of 'ecosystem' without the burden of scientific discipline will now find it easier to do so.
- The research that would have been needed to identify the components of an 'ecosystem' interact can now be forgotten. That will save money, and perhaps nobody really wanted to know anyway. If we all believe that what we call 'ecosystems' have that intrinsic interdependence, it doesn't matter that we don't know. Under the new definitions, it doesn't even matter if it isn't true.

The Undersecretary of the Australia New Zealand Environment Conservation Council in East Gippsland by the Heritage Commission. But these 'ecosystems' retain the sex appeal that ecosystems are supposed to have, and 'ecological vegetation classes' never will.

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- The research that would have been needed to identify the components of an 'ecosystem' interact can now be forgotten. That will save money, and perhaps nobody really wanted to know anyway. If we all believe that what we call 'ecosystems' have that intrinsic interdependence, it doesn't matter that we don't know. Under the new definitions, it doesn't even matter if it isn't true.

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Recent IPA Publications

Restoring the Balance: Tax Reform for the Australian Federation by Jeff Petchey, Tony Rutherford and Mike Nahan

Accepting the widely-held view that Australia's taxation system is in utter disrepair, the authors argue that tax reform cannot be divorced from the reform of Federal-State fiscal relations. On one hand, the Commonwealth's dominance over most tax bases creates a tax cartel; on the other, the States are forced to rely on unsatisfactory and inefficient bases for their tax needs. This book—the first in a new and important series—gives compelling reasons for allowing the States back into income or consumption taxes, and demonstrates the benefits this would bring.

Current Issues (Tax Reform Project), September 1996, $16.95.

Soaking The Poor: Discriminatory Taxation of Tobacco, Alcohol and Gambling by Alan Moran

Governments—in particular, State Governments—are heavily dependent upon the revenues generated by taxes on alcohol, tobacco and gambling. Consumption of these goods and services represents a high share of the income of the less well-off, but only a modest share of that of the more affluent. Because the tax rates are high, the title Soaking the Poor vividly describes their punishing effects on low-income earners. This paper critically examines the incidence and effects of these taxes and concludes that they need to be radically reformed, as part of a general reform of the tax system.

IPA Backgrounder (Tax Reform Project), December 1996, $10.00.

The Human Wrongs of Indigenous Rights by Ron Brunton

The UN Draft Declaration on Indigenous Rights could have enormous implications for Australia. This Backgrounder argues that the fundamental idea of indigenous rights is dangerous and misguided, and is likely to undermine the most powerful moral arguments that can be used to defend equity and tolerance.

IPA Backgrounder, February 1997, $8.00.

Whither Labor? by Gary Johns

An examination by a former Labor minister of where the ALP went wrong and, as a result, what sorts of policies an opposition party needs to offer in the late 1990s to keep the Australian democratic political system competitive and healthy.

IPA Backgrounder, June 1997, $10.00.

Black Suffering, White Guilt?: Aboriginal Disadvantage and the Royal Commission into Deaths in Custody by Ron Brunton

A critical examination of the currently fashionable explanations of Aboriginal disadvantage that were given legitimacy by the Royal Commission into Aboriginal Deaths in Custody. It is particularly critical of explanations that attribute Aboriginal disadvantage to the 'institutional racism' of Australian society. It argues that the ideas that underpin current approaches to Aboriginal policies are counterproductive.

Current Issues (first published February 1993, now re-issued in electronic form only, Windows-based), $15.00.