

The Last Word

Clive Hamilton left the Australia Institute at the end of February to devote himself to writing. Here he pens his last comment for the newsletter.

One of the pleasures of working at the Australia Institute has been the support we have always received from our members. In the early years, when it was just me and an office manager, I knew all of their names. More recently I have enjoyed meeting people at writers' festivals and other public events who announce themselves as members of the Institute.



Dr Clive Hamilton

The support of our members has been particularly important during times of intense pressure. Occasionally we have felt under siege, when powerful groups have had us in the cross-hairs. Our confidence and determination have been restored by the messages of support flowing in.

One of the more worrying developments in recent times has been the use

by corporations of the Trade Practices Act to attempt to silence their critics in civil society. By claiming that criticism of their activities constitutes 'deceptive or misleading conduct', corporations with deep pockets can intimidate and close down individuals and community groups who dare to take them on.

This tactic, which has arisen only since the Commonwealth and the states agreed to adopt uniform defamation laws which made it impossible for a corporation to be defamed, is looking more and more like a new form of SLAPP – strategic lawsuits against public participation.

The Rudd Labor Government needs to look at this as a matter of urgency and change the legislation to outlaw it.

Unpredictable

It is important for a think tank like ours to be a little unpredictable. As Michael Kirby said at the launch of the Institute in 1994:

'...an Institute deserving the name of "The Australia Institute" should welcome to its ranks heterodox opinions. Only if it does so will it earn community and political respect. Only then will it be useful to the country whose name it proudly claims in its title.'

It would be surprising if our members agreed with everything

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we have argued over the years, but I hope their loyalty has been due to their regard for the quality of our work and its ability to challenge and deepen the way we think about some important public issues.

Our focus has shifted markedly over the years. Initially established to argue against the more extreme manifestations of economic rationalism, then being implemented by the Keating government, it has to be admitted that the neoliberal revolution swept all before it.

But in recent years more people have

become aware of the downside of the preoccupation with the economy. The whole neoliberal project has been destabilised by the posing of a profound question: Although undoubtedly successful in its own terms, has the free market revolution actually made people in Australia any happier?

When we look at the evidence, much of which has been created, interpreted or published by the Australia Institute, the answer is 'no', and this leads directly to another question: What policies, political program and forms of social change would make

for more contented individuals and a happier society?

In our work we have begun to suggest some answers to this question, but we are only at the beginning of the development of a new progressive politics based on this idea that can take us beyond neoliberalism.

We are not at the end of history; we are at the beginning of a revolution in which the fruits of a century of political freedoms and affluence can at last be enjoyed.

Counting the cost of by-elections

Do politicians owe a duty to serve out their full term asks Josh Fear

Is Alexander Downer trying to tell us something? Dodging question time for lunch with a journalist, skipping a whole day of parliament for a spot of golf with Mark Vaile, and now trying his hand at radio broadcasting. After the highs of international diplomacy, it would appear that opposition is just too tedious.

All the signals indicate that Mr Downer will be out of federal parliament within the year. Some have welcomed his impending resignation. If the current member for Mayo isn't interested in representing his electorate in the national parliament, they suggest, then the voters should replace him with someone who is.

By leaving parliament prematurely, the former foreign minister is essentially indicating that such work is now beneath him.

But Mr Downer made a commitment to his electorate in the lead-up to the last election. His obligation is now to represent it in the national parliament to the best of his abilities.

Although it often takes place out of the public eye, there is much valuable work that is carried out by backbenchers on both sides of the chamber, particularly in the committee room and on behalf of local constituents. By leaving parliament prematurely, the former foreign minister is essentially indicating that such work is now beneath him.

But is it acceptable for former government members to leave early purely because they have lost government? At the least, there should be recognition of the shirking of responsibility that this entails. There should also be some contribution towards the considerable costs of holding by-elections.

Of course, the funding of elections (including by-elections) is one of the financial costs of democracy. As a rule it is money well spent. But if there were financial penalties associated with not fulfilling a basic election commitment like serving out a full term, perhaps our parliamentarians would pay more attention to the importance of meeting their obligations.

Under the Commonwealth Electoral

Act, House of Representatives and Senate candidates who receive 4 per cent or more of formal first preference votes are entitled to receive public election funding (whether they are elected or not). At present, they receive around \$2.14 for each first preference vote.

Most of this money is paid to political parties within four weeks of polling day. In 2004, \$41.9 million was paid to parties and to independent candidates, including \$18.0 million to the Liberal Party and \$16.7 million to the Labor Party. Again, since it is used to cover the costs of the democratic process, this is entirely appropriate.

Election funding is payable after both general elections and by-elections. This means that there is some financial incentive for political parties to precipitate a by-election, although this is usually offset by the electoral risk involved, and of course the cost of running an extra campaign. But in a safe seat, where the sitting member is going to retire anyway, the major parties could end up benefiting financially from a by-election.

It is time for this loophole to be closed. It is the responsibility of each

political party to pre-select candidates who, in their estimation, are able to meet their electoral commitments – including hanging around for the full term of the parliament, whether or not their party ends up forming government.

Election funding should therefore be withheld (or taken back) from those parties whose elected candidates fail to serve for a certain period.

Election funding should therefore be withheld (or taken back) from those parties whose elected candidates fail to serve for a certain period – say half of their elected term, or 18 months. This would encourage political

parties to pre-select candidates who will stick around regardless of the overall outcome of the election.

Of course, some politicians resign from parliament for genuine reasons. Illness could prevent someone from discharging their duties properly, and should be treated with compassion. If medical evidence is produced, then no financial penalty should apply. If the former member then takes on a high-paying consultancy position, it would be apparent that they left on false terms.

There are also circumstances where it is very much in a party's interests to put forward a local candidate who may well end up retiring before the next election, particularly if it does not form government. Had John Howard won in Bennelong, for

example, it is likely that a by-election would have been held in that seat anyway. In this case it would be up to the party to weigh up the wider benefits of that person's candidature against the possible financial penalties.

Representing one's constituency for the duration of the parliament is a duty that all elected members must carry out, but serving in the ministry is a privilege that very few are granted. If some members choose to leave parliament before their term is up simply because they have lost the political influence they once had, then their parties should be forced to take responsibility for their decisions.

This opinion piece was previously published in The Canberra Times on 29 February 2008.

Electricity privatisation could cripple emissions trading scheme

The NSW Government should not indemnify private investors in the state's electricity infrastructure against the future costs of carbon, writes Clive Hamilton.

The Lemma Government in NSW is finalising arrangements to privatise the state's electricity generators, along with the retail electricity market.

Potential investors in NSW generators will need to assess their future carbon liability carefully. With strong signals from the Commonwealth that emission caps will be set with a view to cutting Australia's overall emissions by at least 60 per cent by 2050, the carbon penalty on coal-fired generators could be large, and will undoubtedly reduce their profitability.

No prudent investor would buy the assets without addressing this carbon risk. The most attractive solution from a buyer's viewpoint would be to get the NSW Government (i.e.

the taxpayer) to indemnify it against the costs of future carbon liabilities. In the past, governments have been known to give secret indemnities or subsidies to private companies to eliminate certain forms of commercial risk.

A recent report by the Australia Institute, *Carbon Liabilities of NSW Electricity Generators*, shows that the expected liability across the state over the period 2010-2030 is between \$10 billion and \$22 billion, with a best estimate of \$15.38 billion.

This amount would be the cost borne by NSW citizens if the NSW Government indemnifies private buyers against future carbon liabilities. An indemnity would release the new owners of a very large cost and permit them to sell electricity

more cheaply than otherwise.

This would give NSW coal-fired generators a substantial competitive advantage over alternatives (gas and renewables) and over other coal-fired generators which would not receive a concession. In short, the granting of indemnities of this magnitude would cripple the Rudd Government's emissions trading system.

There have been suggestions in the press that the sale price of the generators and retailers will be in the order of \$15 billion. If this is so and our estimate of the cost of the carbon liability is anywhere near accurate, the carbon liability and indemnity issue will dominate negotiations in the sale process.

Three wishes for International Women's Day 2008

Saturday 8 March could really be worth celebrating this year, writes Susan Harris Rimmer.

International Women's Day is Saturday 8 March and Australian women can be chilling the cham-pers this year. Julia Gillard has been performing as the first female Acting Prime Minister, and many have felt a swelling of pride in her achievement. Julie Bishop is the first female Deputy Leader of the Opposition and very able. Therese Rein is a 'First Lady' who is inspiring and successful in her own right. The Federal Cabinet rejoices in many competent (and let's face it, downright spunky) women. We have not one, but two female High Court judges. Hallelujah, Federal Parliament is finally getting a crèche.

These local leaps forward in leadership are also following global developments. Hilary Clinton's US election campaign is making the leadership potential of women front page news all over the world. Former President of Ireland and UN human rights chief Mary Robinson has gathered the world's forty female leaders together for the first time in history for the Council of Women World Leaders.

Issues like paid maternity leave and equal pay are starting to rumble down the policy mountain gathering pace at last but are not yet a reality.

However welcome these developments are at the elite political level, they may not necessarily translate into gains for the average Australian woman. Issues like paid maternity leave and equal pay are starting to rumble down the policy mountain gathering pace at last but are not yet a reality. Women who face layers of



disadvantage, such as poor women, migrant workers, indigenous women in remote communities, women with disabilities, and queer women may not notice much of a difference at all.

In the spirit of national change, I nominate three wishes for progress in gender equality that the Rudd Government could deliver immediately, and which might also yield longer term benefits for all Australian women.

1. Move the Office for Women back into the Department of Prime Minister and Cabinet (PM&C). The Office for Women is the policy advisory unit that advises on a broad range of women's issues within the Australian Public Service. It used to be in PM&C, but in the Howard years was made a division of the Department of Families, Community Services and Indigenous Affairs.

Is that important? Yes. When the Executive wants an issue to have a whole-of-government impact and be a priority policy issue, it goes to PM&C. PM&C is therefore getting a new Office for Work and Family, which is good, but women's concerns

are much wider than that. For the same reasons, let's get the Minister for the Status of Women, currently Tanya Plibersek, back into Cabinet. Heck, why not go the whole hog? Rudd is searching for a National Security Adviser, why not include a new high profile appointment to be named the National Status of Women Adviser too? Why not make 500 of the best and brightest invited to the 2020 Summit women? Cate Blanchett cannot do it all on her own.

This is not 'administrivia', it is about signalling the priority the new Government is going to give to issues of gender equality, and it ensures that problems will be tackled with energy and resources.

2. Continue the focus on a national response to and the public campaign against domestic violence. It is completely understandable that the Rudd Government wants to axe the excesses of government spending on advertising campaigns. The 'Australia says no' interventions during the Howard Government might need to be revisited, for example in terms of backing up the spartan website and helpline services. But please do not abandon completely a high priority

national campaign about violence against women.

Even better, the new Federal Government could recognise violence against women and children as a national emergency, on par with counter-terrorism measures. The resolve and resources directed towards the Northern Territory intervention could be directed at tackling these problems in every community in Australia, making the intervention based on the equal rights of all Australians to be free from personal violence.

3. The cherry on top of the IWD cake this year could be for the Rudd Government to deliver on its promise to sign the Optional Protocol to the Convention for the Elimination of Discrimination Against Women (CEDAW). OK, so many Australian women will not have this top of their IWD wish list, but if they knew the history of this long-running saga they would. The CEDAW is the international treaty for the rights of women, much of which has been incorporated into

the federal Sex Discrimination Act 1975. The Australian Government is due to report on CEDAW this year and is calling for submissions from Australian women over the next two months.

This will be another signal, this time to the world, that Australia takes the human rights of women seriously.

The Optional Protocol was designed to create a complaints mechanism so that individuals or groups could make a complaint to the CEDAW Committee in Geneva. The Protocol was designed to put CEDAW in line with the other major human rights treaties like those dealing with torture or racism.

Australia helped to draft the text of this Protocol and promoted its accession in the region. Suddenly, in August 2000, the Howard Government decided not to sign

it, and it came into force without Australia's backing. The Protocol was basically a casualty in a brawl between Australia and the UN human rights treaty system, caused by a fit of pique over adverse comments made to then Minister Ruddock by the Committee for the Elimination of Racial Discrimination over asylum-seeker and indigenous issues.

The Rudd Government has already promised that they would sign the Optional Protocol. This will be another signal, this time to the world, that Australia takes the human rights of women seriously. The impetus of a UN Committee monitoring complaints might also keep us focused on the needs of the most marginalised women and girls in Australia. These three wishes would be IWD gifts to our nation's future and would be worth celebrating this Saturday.

This opinion piece was originally published by The Canberra Times on 8 March 2008.

Dear Mr Rudd: *Ideas for a Better Australia*, Edited by Robert Manne

Paul Keating once said, 'Change the government and you change the country.' With the election of the Rudd government, there is a renewed interest in the nation's future – both the challenges and the opportunities. Just imagine for a moment that you were in conversation with the new PM – what would you tell him about your expectations and hopes for Australia's future?

In *Dear Mr Rudd*, leading Australian thinkers offer essays on key areas of interest: climate change, the economy, human rights, the republic, water and much more besides. Each 'letter' is passionate and imaginative and will create discussion and debate. Here is a set of new ideas to provoke and inspire – not just for our nation's leader but for all Australians.

Published by Black Inc and released nationally on 3 March 2008. For more information see <http://www.blackincbooks.com/>



Cluttering up the home

A new research paper by the Institute has found that the Australian home has become so cluttered that it is affecting many people emotionally. Author Josh Fear discusses the findings.

In 2005, the Institute published a paper on wasteful consumption in Australia. The authors found that the average Australian household wasted \$1,226 on items that were purchased but never used – or \$10.5 billion across the nation. This was more than Australian governments spent on universities and roads.

Many of the things we don't use – such as uneaten food – ends up as landfill, but some of it just hangs around. Rather than throwing away, recycling, selling or giving away our unwanted or unused things, we often let them accumulate.

Almost nine in ten people have at least one cluttered room in their home, and the average home has three or more cluttered rooms.

To examine the extent to which our homes are filling up with clutter, the Institute recently conducted a national survey of 1,000 people. We also interviewed people who identified themselves as having a problem with clutter.

The results were striking. Almost nine in ten people have at least one cluttered room in their home, and the average home has three or more cluttered rooms. Clutter – defined as 'too many items that are rarely or never used' to distinguish it from things that do get used but look messy – is so commonplace in Australian homes that it seems to be the norm.

Even more remarkably, clutter is affecting our mental health. Four in ten Australians say they feel anxious, depressed or guilty about the clutter in their homes, while one in three are embarrassed by it.

Women in particular find clutter distressing. Almost 60 per cent of women said there was a room in the house that they don't like visitors to see because of the clutter. Almost all of the 'problem clutterers' that we spoke to were female. One woman even said that at one point she wished her home would burn down in a bushfire, so she could be rid of all the stuff.

Naturally enough, clutter tends to accumulate over a lifetime, with older people having more clutter than younger people. However, younger people are more worried about their clutter, and more anxious to do something about it. Older people, by contrast, seem to have accepted or resigned themselves to their clutter (despite having more of it).

Our interview discussions also revealed a number of different categories of clutter, depending on the nature of a person's 'attachment' to things.

Emotional clutter has sentimental meaning but little financial value. It could include children's toys or drawings, (unused or unwanted) gifts, school or university notes, or the personal possessions of absent loved ones. Of course, emotional clutter is only really a problem if there is too much of it.

Just-in-case clutter has little or no sentimental value, but since it 'might come in handy one day' it is kept for some time. Examples include old bills or bank statements, tools or stationery.

Bargain clutter is free or very cheap items acquired at sales, from friends or family or 'by the side of the road'. Certain personality types tend to be especially attracted to bargain clutter.

Bought clutter consists of impulse purchases that never end up being used. It commonly includes clothes, fashion accessories and books. It is this category of clutter that is strongly linked to wasteful consumption.

Most of us don't want to buy things we won't end up using, just like most of us would like to be slimmer and fitter than we actually are.

Cluttered homes can perhaps be seen as an analogue of the obesity epidemic. Most of us don't want to buy things we won't end up using, just like most of us would like to be slimmer and fitter than we actually are. Yet the results of this research suggest that Australian homes are often cluttered with things that are rarely or never used. We may not want to live in 'fat houses', but we do.

Of course, the alternative to cluttering up our homes is simply to avoid acquiring unwanted or useless items in the first place. Among other things, this requires a more conscious approach to shopping, one that is about purchasing what we really need and will use, rather than shopping impulsively or as a way of entertaining ourselves. It also requires a healthy scepticism towards commercial messages trying to convince us to buy things that we don't really want or need. If we follow these principles, perhaps we can reclaim our homes.

Teaching Climate Change

The Institute has been busy creating a set of interactive online teaching materials for Australia high schools. The nine separate learning modules educate students on many of the different aspect of climate change; Louise Collett and Christian Downie explain

With rising temperatures, prolonged drought and the seemingly permanent water restrictions Australians are now facing up to the reality of climate change. The mainstream media has finally caught up to the science in recognising that climate change is real and it is happening now.

In 2007, the United Nations' Intergovernmental Panel on Climate Change released its Fourth Assessment Report. It concluded:

Warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level.

The report also stated that there is a 90 per cent certainty that human activities are to blame. In 2008, the Bureau of Meteorology announced that Australia had recorded warmer-than-average temperatures for 16 of the past 18 years. It said that 'this pattern is not surprising given that Australia's climate is warming in line with the rest of the globe'.



With climate change on the political agenda and in the media, Australians are being inundated with information about climate change. For children, in particular, making sense of the

information can be a difficult, if not overwhelming, challenge.

Teaching climate change can also be hard because it cuts across subjects, including Science, Human Society and its Environment (HSIE) and Economics. Accessing suitable information can therefore prove challenging, especially for the aspects of climate change that receive less attention such as the ethics and economics of climate change.

Conscious of these issues, Australian Ethical Investment Ltd generously provided funding to the Institute to put together a series of teaching materials on climate change for high school teachers of year 9 and 10 students. In conjunction with high school teachers and university academics, we compiled nine individual online modules. Each module addresses a different dimension of climate change. The modules aim to provide teachers and students with accurate information to consider and analyse some of the critical issues facing Australia, and indeed the world.

The materials were designed to help students grappling with the difficult questions raised by the study of climate change - What might the impacts of climate change be in the future? What role can international negotiations play? Who is responsible for the damage caused by climate change? Who will suffer most from its effects? What policies can governments use to reduce our emissions? What are the economic costs? Is nuclear power the answer?

For example, **Module 4** looks at the role of the United Nations Framework Convention on Climate Change and the Kyoto Protocol. It describes the workings of the

Protocol and highlights the role developed and developing countries can play. It also considers the arguments that surrounded Australia's decision to ratify the Kyoto Protocol in 2007.



Module 5 introduces climate change as an ethical issue. Through the example of climate change it demonstrates the importance of ethical principles such as the polluter pays principle in resolving questions about who is responsible for the damage caused by climate change.

Module 9 considers the controversial issue of nuclear power in Australia. Suited to both teachers of science and the humanities, this module describes the science of nuclear energy. It then considers the arguments for and against nuclear power in Australia, together with an overview of the problem of nuclear waste.

We have already received a very positive response to the series from a number of teachers and education bodies. A link to the materials has been placed on several popular websites used by high school teachers.

For more information about the series or to download the modules free of charge visit www.teachingclimatechange.com.au

Not all Australian citizens are equal

Your right to vote as an Australian citizen is not as solid as it seems, writes Professor Kim Rubenstein.

On 26 September 2007, the High Court of Australia published reasons for orders announced on 30 August 2007 in the case of Vickie Lee Roach v Electoral Commissioner and Commonwealth of Australia. Vicki Lee Roach was an indigenous woman serving a 6 year term of imprisonment who wished to challenge the 2006 changes that took away the right of all prisoners to vote in Commonwealth elections. The Court, by a 4-2 majority, held that amendments made in 2006 to the Commonwealth Electoral Act to disqualify all prisoners from voting were invalid because they were inconsistent with the system of representative democracy established by the Constitution. However, previous legislation disqualifying prisoners serving sentences of three years or more was valid and remained operative. Ms Roach could not therefore vote in the 2007 election.

This piece was originally published in the Age online on 30 August 2007 after the orders were made and before the reasons were handed down.

Even as the High Court struck down the Federal Government's latest attempt to disenfranchise part of its citizenry, the right to vote is far from an axiomatic feature of Australian democracy.

The High Court's order in Vickie Lee Roach v Electoral Commissioner and Commonwealth of Australia prevents the Commonwealth from universally disenfranchising all prisoners on election day. But all that does is return matters to where they were, with categories of prisoners still unable to vote and no firm guarantees that voting rights on the part of all citizens cannot be abridged.

This is because there is no clear statement in the constitution about Australian citizens' right to vote. Indeed, there is nothing in the Australian Constitution about Australian citizenship, let alone rights that flow from citizenship.

Indeed, there is nothing in the Australian Constitution about Australian citizenship, let alone rights that flow from citizenship.

The High Court's reasons shed important light on the jurisprudence of voting but there is next to nothing in the Constitution the Court can fix upon to make citizens rest easier in



Prof Kim Rubenstein

their bed of Australian democracy.

Citizenship, the right to vote, the right to return and live in one's country, all, one who would have thought, the very rudiments of democratic governance stand on very thin constitutional ground in Australia.

This is partly because Australians were British subjects at the time of Federation. But, more significantly, the drafters were conscious of what Sir Isaac Isaacs stated would be the 'innumerable difficulties' that would flow from including the term citizen in our foundation document. Those difficulties revolved around the racist foundations of our Federation - a desire to exclude people who were not white. It was easier if it were left to administrative practice than law.

Indeed the Roach case highlights one of the many problems with the draft booklet *Becoming an Australian Citizen* (issued in August 2007 by the government in anticipation of introducing a citizenship test to applicants for Australian citizenship). Its statements about what being an Australian means are just not accurate. It says that becoming an Australian citizen means that you have a right and duty to vote. In fact it proclaims 'the right to vote is one of the most important liberties held by Australian citizens'.

But it doesn't mention that it is not all Australian citizens. The result of yesterday's High Court decision is that the former provisions of the Commonwealth Electoral Act in force prior to the amendments are valid. So, an Australian citizen who is serving a sentence of three years or longer for an offence against the law of the Commonwealth or of a State or Territory; or has been convicted of treason or treachery and has not been pardoned is not entitled to have his or her name placed on or retained on any Roll or to vote at any Senate election or House of Representatives election.

Statements about voting rights are not the only area unclear in the booklet. It also says that 'becoming an Australian citizen will mean that you will have the right to live in Australia'. Earlier in the year before David Hicks was returned to

Australia, the Prime Minister asserted that just because David Hicks is an Australian does not mean that he has a right to come to Australia.

Most Australians would presume Australian citizens have a right to live in this country and are rightly outraged at the idea that an Australian citizen may not have a right to enter Australia.

Most Australians would presume Australian citizens have a right to live in this country and are rightly outraged at the idea that an Australian citizen may not have a right to enter Australia. Yet, in constitutional law terms, it is not clear whether Australians have a right to enter and live in Australia. Doesn't that sound

preposterous? But it reflects on the failings of our current Constitution and the lack of clarity in this area in the law.

It is not only the Constitution that sends out mixed messages about Australian citizenship. In 2002 the government strongly supported the recommendations of the Australian Citizenship Council report of 2000 repealing the former section 17 of the Australian Citizenship Act 1948. It allowed Australians to take up a new citizenship without losing their Australian citizenship.

This was a statement of confidence in Australians - that a connection to Australia can be affirmed while one is outside Australia - it is a statement of inclusion rather than exclusion. In contrast, the desire to set up citizenship testing speaks more of exclusion. While there are clear benefits in encouraging permanent

residents to have a basic knowledge of English and know about Australia and its values, setting up a citizenship test with questions that actually emphasise citizenship's uncertainty in Australian law should be avoided.

Policy makers should seriously look at Australia's foundation document to guarantee those rights mentioned in the booklet - all Australians should have a right to vote and reside in their country of citizenship.

Kim Rubenstein is professor and director of the Centre for International and Public Law, ANU College of Law, Australian National University.

She will give the Dymphna Clark Lecture at the Seventh Manning Clark House Weekend of Ideas: Australian Citizenship: Is it really worth having? Saturday 29 - Sunday 30 March 2008, at Manning Clark House.

Courage after the apology

On the day that the national parliament offered its apology to the stolen generations, Pat Dodson addressed the National Press Club. This is an edited extract from his speech.

The Nation, through our Prime Minister, Kevin Rudd, has apologised to the thousands of Indigenous people over many generations who were stolen or forcibly removed from their families, countries, languages and culture.

It takes courage to apologise. It takes courage to forgive. It takes courage to begin a journey when the destination is imagined but not known.

The Parliament has now accepted the complicity of Australian Governments in a misguided attempt to destroy our people. We welcome the Prime Minister's commitment that those 'saddest of all stories' will not be repeated in the future.

The Parliament's statement highlights

the need for a better way of dealing with nation building. This challenge to build a new Australia is vital to us as Indigenous peoples. It is also vital to the integrity of the nation itself.

It takes courage to apologise. It takes courage to forgive. It takes courage to begin a journey when the destination is imagined but not known.

After this moment, Australia can be imagined as a different place. A place where Aboriginal citizens no longer live in third world conditions. A place where our kids are safe. A

place where community rights, of choice, consultation, participation and responsibility matter more than administrative procedures and public sector management guidelines.

This is a good time to ask ourselves why we have had such limited success in genuinely confronting our failure to bring the quality of life that most Australians take for granted to the Indigenous people of our country and to reconcile our position in our country.

The recent debate that has raged in the lead up to the National Apology to the Stolen Generations has not been edifying. There is an exaggerated anxiety that there will be an avalanche of demands for monetary compensation.

Even if the court said there was a case for compensation would the scale cripple our economic future? Any group of people who have been treated badly under legitimate laws of the crown deserve to pursue compensation, judicially, legally and politically. They deserve our support.

Is our fear of having our past Governments and its servants condemned for their failure to act to protect Indigenous Australians so great that we simply cannot countenance the notion of reviewing their actions and establishing processes for recompense, restitution or reconciliation?

The whole issue of making good on the past, including compensation for the stolen generation should indeed be pursued. Let us do so in a considered and negotiated manner as part of a carefully constructed process aimed at building an Australian nation that recognises and respects Aboriginal history, culture, language and society.

The whole issue of making good on the past, including compensation for the stolen generation should indeed be pursued.

Consensus making and consultation processes have delivered a national apology. Such skills will be necessary on all sides to draw up the vision we need for the future.

In recent years we have been engulfed in a spurious discourse over symbolism versus practical outcomes, over rights versus responsibilities and the notion that the collective or community is somehow at odds with the rights and aspirations of individuals.

We as a nation should be capable of developing public policy that recognises the fact that Indigenous society - which draws on thousands of years of cultural and religious connection

to Australian lands - has survived. We are capable of creating a relationship where the imperatives of Indigenous life are understood and respected by governments and institutionalised as part of good governance.

Symbolism is a powerful means to forge new thinking and discourse. I see today's apology as an epic gesture on the part of the Australian settler state to find accommodation with the dispossessed and colonised.

We know from global history that nations and societies have the capacity to break the shackles of paralysis and fear. Who could have predicted in the late 1980s that the monolithic empire of the Soviet Union with its subjugated Eastern European states could have dissolved without bloodshed into a mosaic of democratic nations so rapidly?

Who could have dreamed in 1989 - at the height of the most repressive days of apartheid - that South Africa within five years would elect Nelson Mandela to lead a new democratic nation with a constitution enshrining the world's best practice on human rights and is now getting on with its challenges whilst recognising and respecting all its various traditions, languages and cultures?

We have at this point in Australian history an opportunity for a national renaissance based on modern settler Australia connecting with those who have occupied and managed these lands for countless millennia.

In this process we have the liberating potential to forge a unique national identity and purpose; one that rises above the tragedy of our colonial and racist history and enshrines respect for cultural diversity as a pivotal cornerstone of our nation's existence.

The Northern Territory intervention occurred in the context of an ideological crusade. It was promoted by conservative policy think tanks and influential media commentators pushing a neo liberal prescription for Indigenous policy.

It involved the privatisation of land and homes, dismantling of Indigenous decision-making processes and the shock treatment of abolishing the indigenous economy in remote settlements based on the CDEP scheme. This created distrust, the breakdown of relationships between government and Indigenous people, and policies that became dysfunctional and incoherent not only for the Northern Territory but nationally as well.

We have at this point in Australian history an opportunity for a national renaissance based on modern settler Australia connecting with those who have occupied and managed these lands for countless millennia.

The reality of the apology I hope signals a far deeper intent to remedy this situation quickly with the participation of the Aboriginal leadership. For the first time in many years the resolution of the Unfinished Business between us seems possible.

I take heart today from the words of Jose Ramos Horta, a man who is, hopefully today, finding the courage to survive a vicious, violent attack on him and his nation:

'Now you say this victory [against Indonesia] took courage, but I think more courage is required to be humble, to admit your mistakes, your sins, to be honest. More courage is required to forgive than is required to take up arms.'

Pat Dodson, is an Indigenous leader and the former chairman of the Council for Aboriginal Reconciliation

Both sides now: hopes for the 42nd Parliament

Can democracy be the big winner out of the 42nd Parliament?

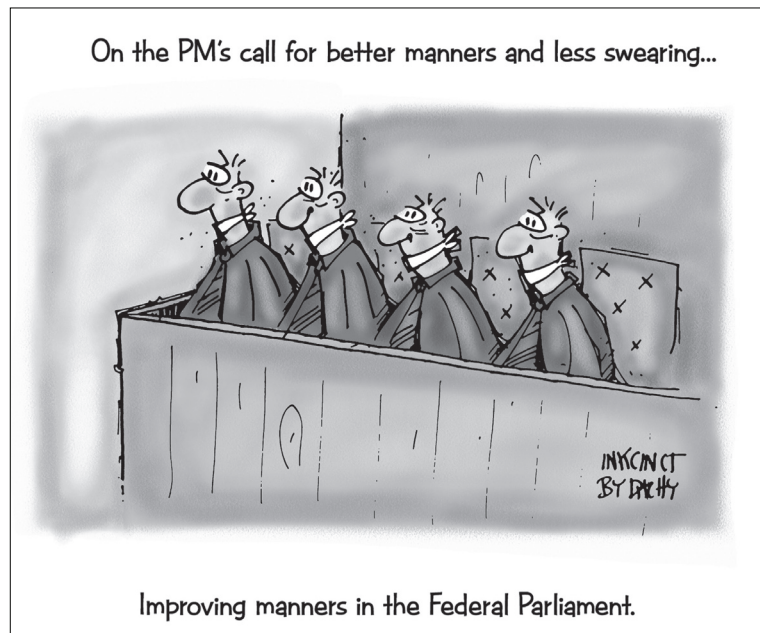
Susan Harris Rimmer speculates.

The first week of the 42nd Parliament was dominated by the apology to the stolen generations. That was entirely appropriate and I was among the throng of Australians at Parliament House to witness the historic event on Wednesday morning.

But the dawn of the new Parliament is crucial in another respect. It is a rare chance to draw a line under practices developed since the Howard Government gained control over both Houses on 1 July 2005, practices that have undermined some of the basic tenets of parliamentary democracy. A new tone of accountability needs to be set from the outset.

What precisely was wrong with the last Parliament? In essence, it was not a place where ideas or legislation were open for robust debate. Decisions were made by the Executive in private and Parliament served as a piece of hollow theatre to progress party political concerns in public, instead of serving as the accountability mechanism it was intended to be. The only sittings worth watching for the non-partisan observer in the 41st Parliament were the conscience votes, and brave backbenchers crossing the floor in the House of Representatives over migration measures.

Harry Evans, the indomitable Clerk of the Senate, set out the most pressing Parliamentary accountability crises arising from Government control of the Senate in 'Silencing Dissent', a book which should be stapled to all new MPs. The Rudd Government has already shown promising signs of rectifying excesses in measures including Friday sittings, the Ministerial Code of Conduct, the Register of Lobbyists and regulating the role of Ministerial staffers. Here



are two further suggestions for a democracy makeover.

1. The Senate will need new champions. The light on the hill over the last decade has for most Parliament-watchers been the glint from the 'Glasses of Democracy', the nickname of Senator John Faulkner. You could practically feel the Parliamentary Triangle quiver during Estimates sessions, while Faulkner and Penny Wong rumpoled their way through the tangle of obfuscating SES. Certainly Faulkner could score the political points he wanted, but what made him feared was his genuine commitment to probity in public expenditure.

The Opposition, and Parliament itself, now needs an outstanding candidate to lead their Estimates campaigns. One Coalition Senator has repeatedly put their commitment to the Senate as a house of review above their career prospects in their party, and that is Senator Marise Payne. All Senators must consider stepping up into the unglamorous, difficult

but crucial roles of legislative scrutiny, procedures, appropriations and privileges, much of which used to be carried out by the Democrats. There is precious little glory involved, but history will thank them.

2. The Chambers should be used to make Bills better. It sounds an unremarkable proposition. To begin with, the Rudd Government should make only judicious and rare use of 'T' Bills. A 'T' Bill is the term drafters use for Bills which are so time-critical they have to pass through both Houses of Parliament in a single session. WorkChoices, counter-terrorism, migration bills and the Northern Territory intervention have all been in the form of 'T' Bills.

No matter what the emergency, it is very rare that a Bill the size of the Yellow Pages actually needs to pass through Parliament in a few hours. Most of these Bills needed amendments passed in yet another 'T' Bill the very next sitting.

I can see the temptation for Labor

Institute notes

New Publications

A. Macintosh & C. Downie, *Aviation and Greenhouse Gas Emissions in the ACT*, Research Paper 50, January 2008.

C. Hamilton, *Carbon Liabilities of NSW Electricity Generators*, Research Paper 51, January 2008.

J. Fear, *Stuff Happens: Unused things cluttering up our homes*, Research Paper 52, January 2008.

Forthcoming Publications

J. Fear, *Choice overload: Australians coping with the new financial order*.

S. Harris Rimmer, *Character as Destiny in Commonwealth Law*.

J. Burton-McLeod, *Public-Private Partnerships in Healthcare: Lessons from the US and Canada*.

INSTITUTE NEWS - STAFF CHANGES

With the departure of Clive Hamilton the Institute is facing some big changes. We are pleased to announce that Susan Harris Rimmer has become our Acting Executive Director.

Susan, a human rights lawyer and refugee advocate, comes to us from the Parliamentary Library. Before that she worked with the United Nations High Commissioner for Refugees and with the National Council of Churches. Susan also serves on committees in a voluntary capacity for the Australian Red Cross and is the President of Australian Lawyers for Human Rights.

Responding to Clive's departure, Susan said: 'Clive is a brave, tenacious and rigorous scholar. These qualities are the legacy Clive leaves to the Australia Institute and I hope to keep them alive in our future work.'

In the past two weeks we have also farewelled our Business Manager, Kelly Bruce and one of our Research Fellows, Christian Downie. Kelly has left for a position at the Australian Council for International Development, the peak body for aid organisations. Christian has begun his PhD in climate change and governance at the Regulatory Institutions Network at ANU. We wish Kelly and Christian the best of luck; they will be greatly missed by the Institute.

Continued from page 11, Both sides now

to hurl one of these behemoth Bills at the crossbenches in response to Opposition calls not to 'rush through' Labor's new IR changes and allow a proper Committee process. But the point, whilst breathtakingly hypocritical on the part of the Coalition, is still valid.

Let us also see the backbenchers off the leash on both sides. The House of Representatives seemed to lose its role in the scrutiny and amendment of Bills, most of the hard work being done by Coalition 'rebels' in their Legislation Committee before Bills were ever tabled.

There is talent and dedication amongst Members of Parliament of all persuasions, but some of their names would hardly be known to the general public. One name that was known and deeply mourned was Peter Andren. Let us hope as an opening prayer from the Public Gallery that his spirit of dedication to Parliament as an expression of democracy will inspire the MPs of the 42nd Parliament.

It must be so tempting for Labor to treat the Opposition the way they have been treated for many long frustrating years. It will require statesmanship and a finely honed sense of judgment as to what are the justifiable prerogatives of holding the majority

mandate in the Lower House, and what is contrary to the best interests of the Parliament as an institution. But Labor has also had a long time to think about it, to reflect on what was genuinely unfair and undemocratic, and to get their judgements right in their new leadership role.

Thousands of schoolchildren troop through the House every year. Let us hope that the next three years provides them with an example worth emulating.

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