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 ACN 061 969 284
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mail@tai.org.au
 www.tai.org.au

Whistleblowers beware!

On February 25 the parliamentary committee published its report on new whistleblowing proposals for the Commonwealth. Dr Bill de Maria from the University of Queensland is unimpressed.

For women and men of conscience in the Commonwealth public service, 25 February will be despondently noted as a day when their parliamentary representatives again failed to step up to the plate and protect people who wish to disclose official wrongdoing. On this day, a parliamentary committee published its report on new Commonwealth whistleblowing proposals that will languidly proceed to parliament for consideration.

This report is mean and narrow in its vision, conservative in its proposals and will do nothing more than send Commonwealth whistleblowers, like lab rats, into management-controlled bureaucratic mazes.

This is the third time in the last 15 years that a national government committee has tried to hold the burning coals of whistleblower protection. But this committee report cries 'ouch!' the loudest. It is mean and narrow in its vision, conservative in its proposals and will do nothing more than send Commonwealth whistleblowers, like lab rats, into management-controlled bureaucratic mazes.

What are the deep problems that make these official efforts to protect Australians who wish to speak truth to power so incompetent? For a start, the recommendations

are not alive to the fact that people in Australia are scared to report wrongdoing, notwithstanding the fact that whistleblower legislation has been on state statute books in Australia since 1993. On the international level, a new PricewaterhouseCoopers' study found that only eight per cent of surveyed companies attributed fraud detection to their whistleblower systems (up from three per cent in 2005). This was only slightly higher than fraud detected by accident!

Very low disclosure figures are also found in our state corruption fighters. In 2007–08, only 74 verifiable public interest allegations under the *Queensland Whistleblower Protection Act 1994* were processed by the Crime and Misconduct Commission and Queensland public sector agencies. Whistleblowing in the Western Australian public service is also a low-level activity three years after the *Public Interest Disclosure Act 2003* was enacted. In 2006–07, only 13 people made protected disclosures to public authorities.

These minimalist disclosure statistics from three Australian corruption fighters complement the abundant international research insight into why employees steadfastly avoid making public interest disclosures.

The whistleblower committee that engineered this bland little docu-

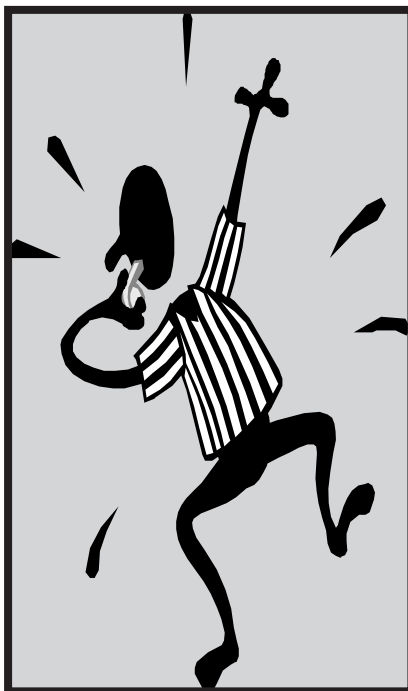
ment simply cannot see that the Commonwealth public sector landscape is not one of robust public interest voice but of deep self-protecting silence. And throwing more bureaucracy at it won't change this.

Here are some of the hot coals that this committee couldn't handle. It won't give protection to ordinary members of the public wishing to report instances of Commonwealth wrongdoing. What does the committee fear here?

An account of whistleblowing's makeover provides through-the-keyhole insights into one of the most fundamental changes occurring in the workplace, the attack on, if not the slow burn down of, collective forms of workplace dissent.

It won't give protection to people fed up with bureaucratic obstruction and harassment who go to the media. It says it will give such protection but like a child on the back step at night, the committee did not venture forth. The only way you will get protection if you go to the media is if the bureaucracy has taken an unreasonable amount of time to process your complaint (whatever that means) and it is a matter of public health or safety. So unless you know of some bureaucrat pouring bubonic plague into your river, forget about going to the media.

This media embargo is in all whistleblower laws in Australia except the New South Wales one. Governments are threatened by journalists properly instructed by whistleblowers with inside knowledge. Thus, when we get another Australian Wheat Board scandal or another Haneef-type allegation against the Australian Federal Police, the media will have to continue to rely on backdoor leaks, which seriously hampers this central democratic



institution fulfilling its accountability role.

The committee embraced a managerialist-driven model of whistleblowing against the international research evidence when other options were available, including a model of whistleblowing as a form of collective public servant dissent.

Only two decades ago, whistleblowers were pilloried as loose moral canons creating organisational mayhem and threatening loyalty bonds in the workplace. This is evidenced by the titles of past papers, including *Police who Snitch: Deviant Actors in a Secret Society* and *Whistleblowers: Saint or Snitch?* Now their ethical services are being integrated into management orthodoxy. Whistleblowing is now coming in from the cold.

The story of how whistleblowing has emerged as the darling of governments and corporations busy engineering anti-corruption campaigns is an intriguing one. An account of whistleblowing's makeover provides through-the-keyhole insights into one of the most fundamental changes occurring in the workplace, the attack on, if not the

slow burn down of, collective forms of workplace dissent. So whistleblowing is what you have when you no longer have a collective voice. The committee shamefully disregards this bigger trend in favour of the status quo.

What went wrong? For a start the committee (Standing Committee on Legal and Constitutional Affairs to give it its full title) was not only a backbench committee, it was a very new backbench committee. Half of its members came into parliament at the end of 2007. Up until the announcement of the inquiry (10 July 2008), these five (including the chair of the committee, Mark Dreyfus) had only five months parliamentary experience.

Other than its policy immaturity, the committee may well have had serious distractions. For most of the life of the committee one member, Kevin Andrews, did not know whether he would face improper behaviour findings by the Clarke Inquiry into the Haneef matter.

When we get another Wheat Board scandal or another Haneef-type allegation against the Australian Federal Police, the media will have to continue to rely on backdoor leaks, which seriously hampers this central democratic institution fulfilling its accountability role.

Sophie Mirabella, the member for Indi, was also on the committee. Was the fact that she attended only one out of 10 public hearings of the committee related to the presence on the committee of Belinda Neal, the member for Robertson, who was found by the House of Representatives Standing Committee on Privileges to have acted 'below' the standards expected of politicians when she told pregnant Sophie Mirabella her baby would be born a 'demon'?

The committee could have made

The whistleblower committee cannot see that the Commonwealth public sector landscape is not one of robust public interest voice but of a deep self-protecting silence.

a real achievement here. It could have been instructed by successful overseas schemes. It could have lessened its overt reliance on research inputs from a university project that on the researchers' own admission had flaws in the methodology. It could have consulted much more widely in the community. The first parliamentary inquiry into Commonwealth whistleblowing in 1994 attracted 102 witnesses and 125 public submissions. This time around the committee had only 71 public submissions

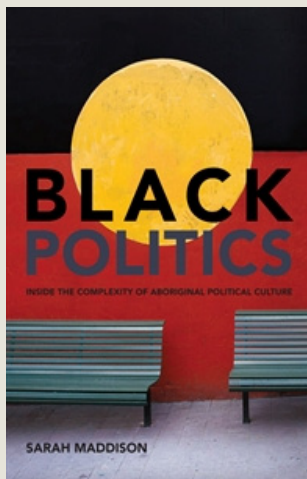
and 77 witnesses.

All we can hope for now is that the parliament rises to the occasion and seriously renovates this proposal into a strong response to assist all Australians who care about official integrity.

However, if the proposal released on 25 February becomes law, my advice to Commonwealth whistleblowers of the future is to keep their mouths shut. §

Dr Bill de Maria from the University of Queensland's Business School specialises in government secrecy, journalists' shield laws, public sector ethics, whistleblowing, business ethics, corporate wrongdoing and corruption.

The Australia Institute hopes that all its members enjoyed a happy and restful Easter.



The launch of *Black politics*

On Tuesday 10 February 2009, The Australia Institute hosted the launch of Sarah Maddison's new book *Black politics*.

Black politics explores the dynamics of Aboriginal politics, drawing on original interviews with influential Aboriginal leaders.

The event was held at Manning Clark House and speakers included Dr Sarah Maddison, Megan Davis, Professor Jon Altman and Tom Calma. Professor Mick Dodson, Australian of the Year, also attended.

The gathering celebrated the publication of the book and the anniversary of the Labor Government's historic apology to the stolen generations. Speakers used the occasion to reflect on the developments in Indigenous affairs over the past 12 months.

After the launch, guests joined Institute staff for drinks and snacks on the lawn at Manning Clark House.

Sarah Maddison is chairperson of the board of The Australia Institute and we congratulate her on a timely and topical publication.

A new start for NewStart

Australians on the NewStart Allowance are some of the most disadvantaged people in Australia. David Ingles laments their exclusion from either of the government's stimulus packages and advances reasons why including them would solve some problems.

The unemployed are the forgotten people in the government's two fiscal stimulus packages, totalling \$52 billion of spending. Raising the NewStart Allowance (NSA) to parity with the pension rate would be a valuable part of fiscal stimulus and relatively inexpensive at \$1.1 to \$1.7 billion per annum. Because Australia is experiencing a negative terms-of-trade shock, with the price of exports falling relative to the price of imports, real incomes will either need to fall or, at best, rise less quickly than they otherwise might. The more evenly the shock is spread across the economy, the less painful will be the adjustment; in particular, we should not be designing policies aimed solely at assisting those who already have good jobs and secure incomes.

Instead, we should be doing more to help the unemployed who are discriminated against compared to pensioners, thus creating an escalating problem of financial hardship. This is especially important in the light of the expected addition of 300,000 people to the dole queues over the next 16 months. Those without jobs not only missed out in the December 2008 package, which assisted pensioners and carers, but will gain very little from the February 2009 fiscal stimulus package.

To bring the NSA to pension parity requires an increase of \$56 a week for singles and \$64 a week for couples.

In an earlier Research Paper, No 56, The Australia Institute pressed for a higher pension to stimulate the economy. Arguments advanced for



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raising the age pension included the fact that age pensioners have a low propensity to import and to save and are geographically distributed across the country. The 2008 stimulus package did in fact include this approach and extended it to disability pensioners.

The arguments for a higher NSA or unemployment benefit are broadly analogous. The different indexation regimes applying to pensions (indexed to wages) and allowances (indexed to prices) increasingly create distortions in the welfare safety net. The single rate of the NSA is now \$11,682 per annum compared with the pension rate of \$14,615, and the couple rate is \$21,070 compared with \$24,414. In addition, the means tests on the NSA are much tighter.

To bring the NSA to pension parity requires an increase of \$56 a week for singles and \$64 a week for couples. The more severe the recession, the greater the increase in extra funds for the NSA that will flow automatically to the most economically depressed parts of the country. They act, in other words, as a very effective automatic stabili-

lizer to the economy.

Currently, government spending on unemployment allowances is around \$5 billion per annum covering some 450,000 recipients. By July 2010, this will increase by two-thirds according to Treasury projections. An average 22 per cent increase in allowances to bring them to parity with pension rates, together with some easing of asset test conditions, should therefore create an eventual fiscal stimulus of over \$2 billion. This is a comparatively modest amount that would be a sensible component in the 2009 Budget. If such spending is deemed unaffordable, income tax cuts proposed for 2009 and 2010 (except that part for low-income earners) should be deferred to pay for it.

The income test is much tighter for the NSA than for the pension. The combined effect of these differences in rates and income tests is that disposable incomes for pensioners are much higher than those for allowees at all levels of private income up to about \$40,000 per annum. This is creating serious structural problems in the welfare safety net as sole parents are losing income when their

youngest child turns eight and disabled individuals assessed as having a modest capacity to work (and thus placed on the NSA) are much worse off than those who are more disabled and can therefore claim the disability pension.

The possibility of reforming the NSA asset test, which is particularly

harsh, could also be examined. If a recipient's assets exceed the threshold, there is a 'sudden-death' loss of the allowance in contrast to the pension asset test, which phases in gradually. Moreover, there is an additional waiting period of up to 13 weeks for allowees with liquid assets above risibly low levels. Both these facets of the NSA asset test should

be reformed.

Although both stimulus packages have overlooked the unemployed, it is not too late. The 2009 Budget is on the horizon and should have as one of its foremost aims the easing of financial hardship experienced by the unemployed, both those currently on the books and those likely to join them as the economy weakens. §

Crunch time conference 22 to 23 April 2009

The Australia Institute worked closely with the nation's progressive think tanks to present a major policy conference, *Crunch time: Australia's Policy Future*, which took place in Sydney on 22 and 23 April 2009.

The event featured an impressive list of local and international speakers including Ann Pettifor from Advocacy International in the UK. Ann has written extensively on debt and finance, climate change and international development and was one of the authors of the UK new economics foundation's *A Green New Deal*.

Crunch time took place one year from the 2020 Summit and coincided with the half-way mark of the Rudd Government's first term. It provided an opportunity to consider the lessons of the global financial crisis and to discuss the principles that should drive policy in the 21st century.

Crunch time was very well attended with over 130 delegates present and all agreed that it was a timely and informative event.



Reconciling the nation

A new study released by Reconciliation Australia on the eve of the anniversary of the national apology in February 2008 highlights the opportunities for, and barriers to, reconciliation.

On the eve of the anniversary of the national apology in February, Reconciliation Australia released a landmark study on how Indigenous and other Australians see and feel about each other.

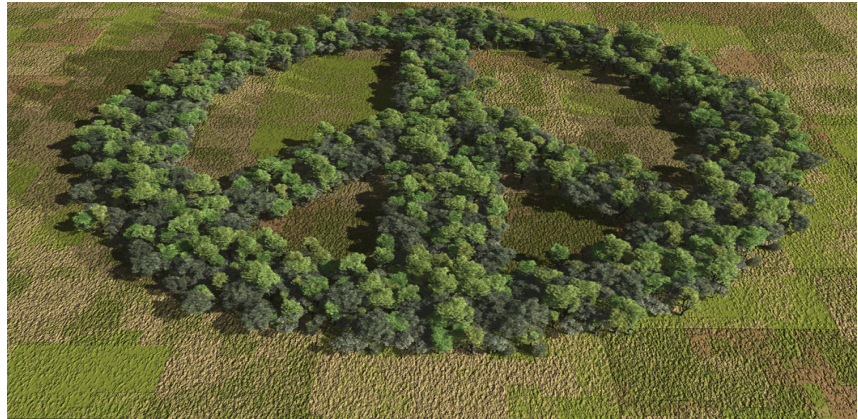
The Australian Reconciliation Barometer is a national research study that looks at the relationship between Indigenous and other Australians. Designed to be repeated every two years, the Barometer explores how attitudes and perceptions affect progress towards reconciliation and closing the gap.

The study was conducted for Reconciliation Australia by social research company Auspoll, which canvassed the views of 600 Indigenous and 1,000 non-Indigenous people.

‘The themes coming out of the research highlight very significant opportunities since the national apology but also very real barriers we need to tackle’, said Barbara Livesey, chief executive of Reconciliation Australia.

The main positive findings were:

- a majority of both groups believe the relationship is important and improving
- a strong belief among both groups that all Australians should know about Indigenous culture and history
- many shared ‘Australian’ values—each group is strong on



family orientation, pride, an easy-going nature and sense of humour

- a majority of non-Indigenous Australians would like to have contact with Indigenous Australians
- a majority of non-Indigenous Australians have taken steps to advance reconciliation in the last 12 months.

Other findings demonstrated challenges in our national effort to close the gap, including:

- low levels of trust between the two groups
- we don't recognise qualities in each other that we value in ourselves
- non-Indigenous Australians don't know what they can do to close the gap.

‘This is the insight we need to do our work effectively, and it's of great value also to government and other sectors working to close the

gap’, said Ms Livesey. ‘We need to take advantage of the opportunity to educate and engage people at a time they're clearly open to it. And we need to be realistic that lack of trust is a real issue—something that governments and all of us have to work on if we want to get better results.’

To read the executive summary, the full comparative report and a quick guide to the Australian Reconciliation Barometer, including case studies, go to reconciliation.org.au.

Reconciliation case study: Leah Armstrong and Mike Scarf from Yarnteen Aboriginal and Torres Strait Islanders Corporation

Yarnteen is a not-for-profit organisation in Newcastle that offers training and jobs to Aboriginal people. It creates the opportunities by setting up Aboriginal-owned businesses in partnership with people in the wider community.

Since 1991, Yarnteen (meaning ‘all/ everybody’ in the local Awabakal language) has established a bulk storage facility, a car- and boat-wash business and a ‘camp’ offering accommodation and cultural experiences for tourist groups.

We need to take advantage of the opportunity to educate and engage people at a time they're clearly open to it. And we need to be realistic that lack of trust is a real issue—something that governments and all of us have to work on if we want to get better results.



Torres Strait Islander Leah Armstrong is the executive director of Yarnteen. She says she didn't think twice about going into partnership with a non-Indigenous man who had the experience Yarnteen needed to set up the bulk storage facility. 'This was never about proving I could do something by myself', said Leah. 'No one can do that if they don't have all the skills.'

'Taking on Mike, or any non-Indigenous manager in this business was a risk—it wouldn't have worked if he was only in it for himself rather than sharing our vision.'

Leah believes that Indigenous and non-Indigenous people work together most effectively when they both have something to gain. 'It can't be all about helping Indigenous people—the enterprise has to be a win/win for everyone.'

She says she helped Mike understand Aboriginal culture and values by explaining them in ways he could relate to. 'Mike is very family-oriented and it made sense to him to see our culture in terms of looking after family.'

Mike says he and Leah always talked things through and made sure their expectations of each other were clear. 'It took a while to work things out but we knew we were going in the same direction.'

'I was used to working in an environment that was focused on results. I learned from Leah that there are different ways of getting results and that results are about more than the bottom line.'

Of Yarnteen's success and his role in it, Mike's response is: 'If anyone's been the lucky one, it's me. I've had the chance to work and walk alongside Aboriginal people and contribute to their success. We're a family at Yarnteen—that's just how it works'. §

And justice for all

The Howard Government cut the funding of legal aid in 1997 and thereby disqualified many people from having the financial ability to defend themselves legally. Tully Fletcher examines the current situation.

Many of the high school leavers who make their way to law schools around Australia each year do so out of a genuine motivation to assist those in need and achieve a just society. But after arriving full of high ideals about the justice system and political institutions, these students are quickly confronted with the stark realities of power politics, economics and the fact that their dream jobs as future white knights of the law are few and far between.

Legal aid steps in to provide funding for a private lawyer or a legal aid lawyer to represent and advise criminal defendants, civil litigants and others involved in legal matters requiring professional advice and services but unable to afford it on their own.

Laden with debt, those who go on to practise law quickly learn that the only people and organisations who can really afford their services (and pay their HECS debts and mortgages) are the rich, big business and government. They were motivated to help ordinary people but these individuals could never hope to afford comprehensive legal advice or brief a barrister, run litigation and risk all their assets on a gamble in the courts to protect their rights.

This is where legal aid should step in to provide funding for a private lawyer or a legal aid lawyer to represent and advise criminal defendants, civil litigants and others involved in legal matters requiring professional advice and services but unable to afford it on their own. The rationale behind legal aid is

that rights, once granted by government, are useless unless a citizen has access to professional legal advice and representation. The stark reality of our legal system is that its processes, and the law itself, are mostly beyond the comprehension of the people it governs. It takes a four-year degree (at least) for a student to even begin to understand the law properly, and even more years for the graduated lawyer to develop a level of expertise sufficient to provide advice and representation worth depending on.

In addition to legal aid, community legal centres and lawyers offering *pro bono publica* (for the public good) legal advice provide an invaluable service for ordinary Australians on a daily basis. However, lawyers' charity can only go so far and community legal centres generally don't provide representation or conduct litigation. Legal aid is a much more comprehensive service for those Australians lucky (or unlucky) enough to meet the relevant criteria set by the state Legal Aid Commissions. Discretion exists but generally applicants must satisfy strict merits and means tests to qualify for the aid.

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The tests measure the likelihood that your case will succeed in court, any public interest in your case, and your income and assets, taking into account your depend-



ents and outgoings. The tests are complex and are applied differently in each jurisdiction but only those earning close to the minimum wage appear to qualify. If you're on a higher income you may qualify for some legal aid with a co-contribution on a sliding scale but generally the aid is a service only for those in the lowest income brackets. One in ten applicants is refused with an average of around 40 per cent failing to qualify under the means test.

At first glance these figures don't seem alarming. It is not unusual for a government program with strict application criteria to make a reasonable level of rejections. However, those statistics don't reflect the reality in the courts. Judges are so concerned at the numbers of self-

represented litigants that former Chief Justice Murray Gleeson spoke out early in his tenure on the High Court to express his concern, observing that: '[W]hat is real and substantial is the cost of the delay, disruption and inefficiency that results from the absence or denial of legal representation'.

His Honour went on to add that: 'Providing legal aid is costly. So is not providing legal aid'. Of course, these costs extend far beyond the courtroom into continued neighbourhood disputes, reoffending criminals, lost rights, broken or unenforced contracts and greater burdens on other government services.

So where does this problem of legal under-representation come from? Most point the finger at the Commonwealth and the significant changes made to the federal contribution to legal aid in the 1997 Budget. The Commonwealth and the states had previously co-operated in providing funding but the new Coalition Government identified the legal aid program for cuts and the Commonwealth now provides funding only for a limited range of matters where Commonwealth laws are being applied. This placed pressure on the states and community legal centres to make up the shortfall and the state and territory legal aid commissions currently apply a stricter application of the eligibility criteria.

There is now anecdotal evidence and some research suggesting that substantial unmet demand for legal services is present in the Australian community. Citizens unable to afford the services of private lawyers but not poor enough to qualify for legal aid go without and ignore legal problems or take the very risky path of representing themselves. Given the extremely high cost of litigation, especially against a large organisation, business or government department, the potential for legal inequalities to materialise in the community (regardless of the legislative regime) is high.

There is now anecdotal evidence and some research suggesting that substantial unmet demand for legal services is present in the Australian community.

So, in the hope that more of our idealistic law graduates might one day be able to make a living from assisting those most in need of their help, The Australia Institute is currently conducting research into unmet legal need in the community, the economics of the legal aid system and policy options for reform. After 12 years, it feels like it's about time to overhaul legal aid and ensure that the rights we vote ourselves are worth something when we need them most. §

The Institute's re-badging exercise

The Australia Institute has recently taken the decision to re-design its logos, publications, website and stationery and is currently in the process of completing that task. It is the reason for the lateness of the March newsletter, which has been held up due to the process taking rather longer than we had anticipated.

This newsletter is the first of our publications to appear with the new design. After 15 years of our previous logo design, we decided that it was time for a change. We are very pleased with the result and hope that all our members approve as well.

Examples of our new logos are shown on the right. Our new website will be launched soon and will display new features.



The Australia Institute

The Australia Institute

Research that matters.

The great superannuation tax concession rort

Tax concessions where superannuation is concerned constitute one of the biggest financial rorts in Australia and cost the revenue substantial sums. In his paper, *The great superannuation tax concession rort*, David Ingles examines the fine print and explores some suggestions for reform.

Superannuation tax concessions will cost the budget \$24.6 billion in 2008–09, rivalling the \$26.7 billion annual cost of the age pension and amounting to a fifth of income tax revenue (\$130 billion per annum).

The growth in the cost of the superannuation tax concessions will continue unless current policy settings are changed significantly. This is because the age dependency ratio (the proportion of the population aged over 65) is expected to almost double to 25 per cent over the next 40 years.

The benefits of tax concessions are so skewed towards the well-off that they undermine the redistributive nature of the Australian retirement income system.

The forecast growth in superannuation assets ensures that there is a question mark over whether the current system will be sustainable.

The paper begins by providing a brief history of superannuation policy in Australia and then goes on to discuss a number of the issues associated with the current taxation of superannuation.

The first issue concerns who gets the benefits. The paper demonstrates that the tax concessions flow overwhelmingly towards the well-off, with those earning less than \$34,000 per annum receiving almost no assistance and those earning over \$180,000 per annum receiving the most. Astonishingly, the top five per cent of individuals accounts for 37 per cent of concessional contributions.

The current concessions provide almost no benefit to low-income earners, but an executive earning \$300,000 per annum with a million dollar retirement account can receive \$37,000 of concessions, 2.5 times the value of the age pension, for every year of their working life.

Tax concessions for superannuation provide substantially greater benefits for men than women and this disparity will continue under current arrangements.

The paper finds that, while there is no doubt that tax concessions increase retirement incomes, the benefits of those concessions are so skewed towards the well-off that they undermine the redistributive nature of the Australian retirement income system.

The second issue concerns the cost of the concessions. Measuring the cost depends, in part, on the 'tax benchmark' used. If comprehensive income (as used by

Treasury) is the benchmark, the system is highly concessional. If an expenditure tax treatment is the benchmark, the concessions are much less but, at \$4.6 billion per annum, remain substantial.

Calls by the superannuation industry to change the methodology for measuring the size of the tax concessions are self-serving; the major effect of such a change will be to reduce the visibility of the tax concessions currently granted.

The third issue examined is whether the tax concessions result in an increase in aggregate saving. The evidence that tax concessions stimulate additional private savings is weak. Because the concessions flow overwhelmingly to the well-off, who would save anyway, the overall effect may be to alter savings patterns without creating a net increase in savings.

The cost of concessions is so high that any addition to private saving is



likely to be more than outweighed by the loss in government saving.

Having addressed these questions, the paper then explores a number of possibilities for reform.

The lighter the weight of tax concessions and the heavier the weight of pensions within the retirement income system, the more redistributive the system will be.

Option 1 is to remove the most egregious of current concessions and would involve, for example, taxing the earnings of superannuation funds during the payout stage and the abolition of salary sacrifice arrangements. This option would raise \$4 to \$5 billion per annum and, in terms of salary sacrifice, would affect only a small minority of largely high-income earners.

Option 2a is to change both the tax on contributions and fund earnings (currently 15 per cent) and the tax on fund capital gains (currently 10 per cent) to 30 per cent, comparable with the standard marginal tax rate. This would raise approximately \$18 billion per annum.

Option 2b is to tax superannuation contributions at an individual's full marginal tax rate. This option would deliver greater benefits to low-income earners and significantly fewer benefits to high-income earners. Combined with the higher tax rate on fund earnings, it would raise about \$21 billion per annum.

These increased revenues could be used to finance significant tax reform. Or, they could finance pension reform. The lighter the weight of tax concessions and the heavier the weight of pensions within the retirement income system, the

more redistributive the system will be.

The paper also canvasses two further options that are more conservative in that they redistribute the tax concessions while retaining broad taxpayer support for superannuation.

Option 3 combines Option 2b with a new rebate for all superannuation contributions. This could be either a 50 per cent rebate subject to a low ceiling (Option 3a) or a simple proportional 18 per cent rebate with a much higher ceiling (Option 3b). Both these options would cost around \$18 billion per annum and would produce net savings of about \$4 billion per annum. Although these two alternatives both deliver some tax assistance to the well-off, each would be a considerable improvement on the current system. §

Food security

Food security is becoming one of the most serious problems facing the world. Scott Kinnear gives an overview of the failing systems that are contributing to this potential global catastrophe.

In early March, Patrick Holden, director of the Soil Association in the UK, visited Australia as my guest to raise awareness around the subject of food security. The Soil Association is one of the leading voices in Europe supporting organic and biological agriculture and a shift from high-input to low-input systems of production as a means of achieving food security.

Globally, we are experiencing drought on most continents including China, India and Australia. In northern China, 24 million acres of wheat have failed during the last growing season. Global grain stocks are at their lowest level for 30 years. Aquifers are being depleted faster than they are being replenished. In the US it will be only two to three decades before production systems are seriously affected by exhausted

aquifers. In Australia, we have our own calamity unfolding along the Murray-Darling River system with its lowest recorded inflows ever.

The analogy that Patrick Holden uses is drawn from the global financial crisis. He believes that if we don't act soon, we will face a food crunch with far more serious consequences than the global credit crunch. Just as we have used up financial capital as income, we have used natural or ecological capital as income. Put bluntly, our systems of agriculture and food distribution are not sustainable and are at risk of collapse.

In addition to climate change creating extreme weather events, there is a convergence of other limiting factors unfolding globally. Declining availability of land, soil fertility, wa-



ter, fossil fuels and mineral fertilisers are all impacting on output. The latest UN environment program report gives a sobering assessment of what is to come. By 2050, a quarter of global food production is expected to be lost due to the combined impact of climate change, land degradation and loss, water scarcity



and species infestation while at the same time two billion people are expected to be added to the world's population.

One of the great challenges that we have to face is the use of agricultural land to produce bio fuels.

Last year, the price of food spiked higher, largely due to the increase in the price of oil, and this led to food riots in 30 countries. The price of mineral fertilisers is linked to the price of oil as are pesticides and herbicides. Increased food prices will mostly affect the world's poorest people who do not have access to land to grow food.

The Food and Agriculture Organization's (FAO) recent report, *The State of Food Insecurity in the World 2008*, reveals that high food prices are driving millions of people into food insecurity. Estimates are that more than 75 million people were added to the total number of undernourished in 2007 alone. By the end of 2007, it is estimated that more than 923 million people went hungry every day. The FAO argues for a twin-track approach by initiating:

1. measures to enable the agricultural sector to develop more food sustainably

2. social protection programs for the most food-insecure and vulnerable.

Broadly speaking, Patrick Holden proposes a shift to biological agriculture through simply managing our soils differently—building soil fertility through rotations of crops that use photosynthesis rather than fossil fuels. It may be that the largest carbon sink available to us globally is through managing soils biologically. In addition, as we increase soil carbon we improve soil structure and water-holding capacity. Soils are more resilient and require less water and farmers are better able to manage drought and extreme weather events. The Rodale Institute in the US, with more than 20 years of side-by-side trials, has shown that if the planet's 3.5 billion tillable acres were worked using practical organic (biological) agriculture, we could sequester 40 per cent of current CO₂ emissions.

One of the great challenges that we have to face is the use of agricultural land to produce bio fuels. Whilst this was initially seen in a positive light as a renewable form of fuel, which it is, the impact on food security is now understood to be a graver problem. In addition, urbanisation is continuing to threaten the very best agricultural soils worldwide. Although we should resist property developers who buy up the best soils to build houses, we also need to learn how to redesign our

urban landscapes so that they are capable of producing food as well. Water restrictions need to exempt home-grown food, arguably the most efficient use of water for food available with the lowest carbon footprint from garden to plate!

Patrick Holden reminded us that during the Second World War more than 30 per cent of food was produced within cities. He is also involved in the transition town movement, which addresses sustainability on all levels and is sweeping Europe and the US and taking hold in Australia. In Brunswick, Victoria, CERES is a great example of community food gardens producing a significant quantity of food within the inner city of Melbourne. In fact, some residents are taking matters into their own hands and tearing up public space late at night to create 'stealth gardens'.

Last year the price of food spiked higher, largely due to the increase in the price of oil, and this led to food riots in 30 countries.

If you have a chance, get your town discussing the possibility of becoming a transition town, lobby your MPs, write to the newspaper, buy local and grow some of your own food. In short, be the solution and enjoy. §

Fat cats

There has been much consternation lately over executive salaries, which appear to be out of control, especially now that the global financial crisis has buffeted business and share prices are heading south. Leigh Thomas tells the story of one CEO who is making the most of his opportunities.

In his 2005 *Letter to shareholders*, Warren Buffet observed:

Getting fired can produce a particularly bountiful payday for a CEO. Indeed, he can 'earn' more in a single day while cleaning out his desk than an American worker earns in a lifetime of cleaning toilets. Forget the old maxim about nothing succeeding like success: today, in the executive suite, the all too-prevalent rule is that nothing succeeds like failure.

And all too often this appears to be the case. Examples over the last few years include the following.

1. Owen Hegarty at Oxiana Resources (now Oz Minerals) was promised \$10.6 million when he stepped down as CEO after driving the company to the point of insolvency. In fact, Oxiana shareholders had voted against the payout but a week after the vote they discovered that Mr Hegarty had been given \$8.35 million anyway. The lower payment did not need shareholder approval as it was less than seven times his salary.



2. Tom Park steered Southcorp to make the unfortunate acquisition of Rosemount. He was effectively made redundant after only five months in the job and received \$10.1 million, including a \$3 million severance payment.

3. Just before Lehman Brothers achieved the distinction of becoming one of the largest bankruptcies in the US, the company was still distributing 'golden handshakes' to its executives to the tune of millions of dollars. The CEO, Richard Fuld, received US\$484 million in salary, bonuses and stock options.

4. Sir Fred Goodwin of the Royal Bank of Scotland will receive the equivalent of a million Australian dollars a year for life after inflicting one of the worst disasters in British corporate history on his company.

5. In 2008, former PBL CEO, John Alexander left the troubled company with a termination payment of \$15 million, 468 per cent of his salary.

And the list goes on. The above are CEOs who actually left their companies with huge payouts but there is an even longer list of CEOs whose salaries and benefits increased as their companies' share prices dived. In Australia in 2008, as share prices fell 30 per cent, the pay of CEOs of the top 100 companies rose 27.5 per cent.

The question that needs asking is why? Employees who under-perform get fired with maybe a month's pay in lieu of notice; top executives who fail spectacularly and are fired get looked after for the rest of their lives. The answer must be because they can.

Corporate structures, boards, fellow executives, remuneration com-

mittees, accounting rules and executive compensation advisors all conspire to give CEOs virtual carte blanche to name their own price.

Getting fired can produce a particularly bountiful payday for a CEO. Indeed, he can 'earn' more in a single day while cleaning out his desk than an American worker earns in a lifetime of cleaning toilets (Warren Buffet).

Consider the following example. The board of Make us Rich Ltd hires Roger Rakeoff to be the new CEO of the company. The board has consulted with the executive compensation advisory company, Upward and Upward Pty Ltd. Upward and Upward advise on what the average salary package is in the industry. Obviously the board pays more than the average—it doesn't want a monkey. It is in Upward and Upward's interests to advise on the high side because they know they'll be rewarded with other advisory jobs for the firm. Not to mention that their fee for services rendered will be a percentage of the salary paid to this new captain of industry.

After an expensive world-wide search, the board settles on Mr Rakeoff and offers him the job. He has a reputation, of sorts, but his can-do manner is particularly appealing. In fact there is little Mr Rakeoff can't do according to Mr Rakeoff and the board is quite excited to be hiring someone so obviously talented and so comfortable at exalted executive levels. Mr Rakeoff is also a good negotiator, much better, in fact, than anyone on his new board.

Forget the old maxim about nothing succeeding like success: today ... the all too-prevalent rule is that nothing succeeds like failure (Warren Buffet) .

He negotiates a generous deal for himself. In addition to his large salary, there are incentive bonuses and achievement bonuses, holiday houses by the sea, use of the executive jet and, best of all, executive options. Options aren't considered a company expense so it's not as if they cost anyone anything, is it?

There are many strategies for increasing profit and thus share price, which don't necessarily benefit the company long-term but considerably add to short-term profits.

Mr Rakeoff's strategy is clear as crystal—engineer a huge increase in the share price of Make us Rich. He can rein in shareholder dividends and use the company's profits to purchase more of its shares, sending the share price up and, as luck would have it, making himself a millionaire many more times over. As more and more shares are repurchased, there are fewer available and thus earnings per share increase substantially. There are other strategies for increasing profit and thus share price, which don't

necessarily benefit the company long-term but considerably add to short-term profits.

In order to make more profit, Mr Rakeoff cuts costs dramatically, including research and development, and downsizes the company's workforce—ruthlessly. It is probably no coincidence that CEOs who hope to gain serious amounts of cash from their stock options are also the most determined when it comes to making large numbers of their staff redundant.

The company is making so much money that it can revalue its assets upwards, borrow more money against them, and use the loans to make acquisitions, which will add to the profit of the company and allow it to borrow even more money to purchase more acquisitions ... And so the merry-go-round proceeds—until the music stops.

The board is caught in several binds. It appointed Mr Rakeoff and it would not look too good if it now decided that he is, after all, not quite right for the position. The fortunes of the board and Mr Rakeoff are intertwined—if he falls, they may go down with him. They don't

want to rock the boat either—some of the board members might get to be CEOs themselves one day.

Finally, things must come to a head. If Mr Rakeoff has successfully pulled the wool over everyone's eyes, he leaves the company with a vast payout and buys a football team somewhere in the country, the CEO equivalent of the managerial Ferrari. If, however, he presides over a spectacular debacle and both the board and the shareholders vote to get rid of him, he is presented with a firm golden handshake and is set for the rest of his life.

It would be comforting to think that Kevin Rudd is sincere in his stated desire to stop these shenanigans and impose restraint on executive greed. Chances are, however, that he will fail. What is needed is a complete rethink of the various elements (the corporate structure, the accounting policies, even the board itself) that are currently contributing to the problem. But it is likely that CEOs, by and large clever and resourceful people, will find ways to circumvent new rules. After all, someone has to own the football clubs! §

Loneliness in Australia

According to findings by the Australian Unity Wellbeing Index, almost one third of Australians are lonely with loneliness levels of 40 points or more. Using a 100-point scale, where 100 is extremely lonely and 0 is not lonely, an average loneliness score of 30 to 40 points suggests that an individual's state of wellbeing is compromised.

The risk factors are the absence of a partner, a household income of less than \$60,000, being male and looking for work. Men are lonelier than women but, from the point of view of being less lonely, marriage benefits men more than women.

Key findings include:

- more than 30 per cent of Australians are lonely
- Australian men are lonelier than Australian women
- marriage benefits men more than women when it comes to loneliness
- living with other adults does not mean people will not be lonely
- people who are looking for work are lonely. §

The only offer in town

Penny Wong has repeatedly denied that there are flaws inherent in her emissions trading scheme, the Carbon Pollution Reduction Scheme. Richard Denniss examines the scheme's shortcomings and comes up with a way to fix the problem.

If a day is said to be a long time in politics, the last three months of debate about emissions trading must seem like an eternity for Climate Change Minister Penny Wong.

The Australia Institute newsletter of December 2008 spelled out the 'floor' that the Institute discovered in the proposed Carbon Pollution Reduction Scheme (CPRS). That is, under the proposed scheme the pollution permits that the government is set to allocate will not just impose a cap above which the level of pollution cannot rise but also a floor below which it cannot fall.

As a consequence of this 'structural floor', the harder that individuals or communities work to reduce emissions, the more spare pollution permits there will be to allow the big polluters to expand their emissions.

When the Institute first began to describe this bizarre, and counterintuitive, feature of the CPRS we were met with disbelief on the part of the public and outright denial from the Climate Change Minister herself. But the debate, as opposed to the CPRS, has now changed quite dramatically.

The notion that voluntary action to reduce emissions, for example installing solar panels, turning off air conditioners and driving smaller cars, cannot reduce emissions once the proposed CPRS comes in is now widely understood. Even Penny Wong has recently admitted as much. Under a journalist's sus-

tained questioning at the release of the draft legislation, she finally conceded that, no matter how hard individuals or communities try to reduce emissions, they will not be able to do so below the target set by the government.

JOURNALIST: If we get one per cent reduction through voluntary household action, does that mean the scheme, the cap, can raise one per cent above that?

WONG: The target range remains the same — five to 15 — that is the decision of the government. People have different views about that but that is the decision that was announced in the context of the White Paper.

Penny Wong's admission attracted some attention in the media but despite the widespread understanding of the 'floor' in the scheme among the bureaucracy, the government continues to count on the public's misunderstanding but trustful attitudes.

However, although the public may still be confused, the environment movement, GetUp, *Choice Magazine*, the Coalition, the Greens, Steve Fielding, Nick Xenophon and even the CFMEU are now calling on the government to modify the CPRS to fix the floor. But what would a fix look like?

In addition to highlighting the problems associated with the CPRS, the Institute has also been busy working with a range of experts to



help develop a solution. We call it 'cap and slice' and it works like this.

Under the existing CPRS proposal, the government will issue a fixed number of permits each year between now and 2020. The plan is for the number of permits issued each year to fall steadily to ensure that, by 2020, we reach the target of an emissions reduction of between five and 15 per cent.

However, as the quotation from the Climate Change Minister cited above makes clear, no matter how hard individuals or communities work to reduce emissions, the end point will not be changing.

It doesn't need to be that way. The institute is proposing that the CPRS be amended in the Senate to ensure that the result of voluntary efforts (whether by individuals, local governments, state governments or even the Australian Government itself) to reduce emissions will result in a reduction in the number of permits in circulation. Under such

As a consequence of this 'structural floor', the harder that individuals or communities work to reduce emissions the more spare pollution permits there will be to allow the big polluters to expand their emissions.



a scenario, the CPRS would therefore set a cap above which emissions could not rise but it would not impose a floor below which they could not fall.

The next step is to measure the amount of 'voluntary' action. There are a number of ways that such a measurement could be undertaken but the simplest is to rely on the forecasts that have already been made in the modelling that underpins the White Paper. That is, the government has already estimated how much energy the household sector will use between now and 2020 and by how much that will fall as a result of the CPRS. The easiest way to determine the impact of 'voluntary measures', including the self restraint required to leave the air conditioner off, is to simply compare actual household energy use with forecast energy use. If it is lower than forecast, the government would issue correspondingly fewer permits in the following year.

Some people have argued that voluntary efforts are too small to make a difference, but this argument is flawed for a number of reasons:

1. Voluntary action does not just mean people installing solar panels on their roofs—it means behaviour change, lifestyle change and cultural change. Over the past decade, millions of Australians have altered their lifestyles in order to reduce their carbon footprint. The impact of people reversing these

changes would be substantial.

2. In the fight against dangerous climate change we need to take advantage of every opportunity. The proposed CPRS locks us into failure by limiting Australia's emissions reductions to the pathetically small five to 15 per cent target proposed by Minister Wong.

3. Most importantly, voluntary action does not just mean individual action. For example, as part of the \$42 billion stimulus package, the Rudd Government announced it would spend \$4 billion on insulating around two million Australian homes. The Prime Minister told Parliament that this would reduce emissions by 50 million tonnes—of course, what he meant to say was that it would free up 50 million tonnes of permits to facilitate an increase in the emissions of the big polluters.

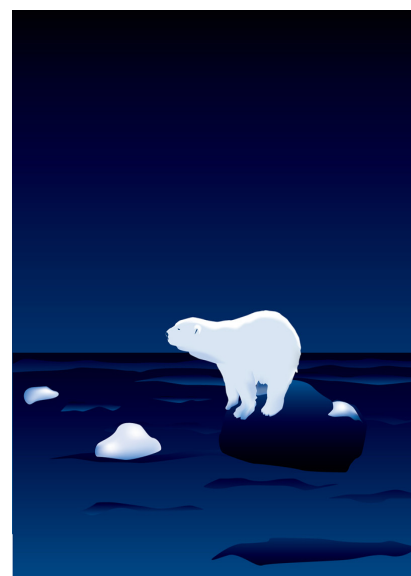
But it doesn't need to be so bizarre.

By capping and slicing, the government can easily reduce the number of permits issued in subsequent years in line with the forecast savings from the insulation initiative. Similarly, when Anna Bligh told the Queensland electorate that by purchasing thousands of solar hot water systems she would save 640 thousand tonnes of CO₂, it wouldn't have to be just greenwash. By capping and slicing, the efforts of the Queensland government could deliver benefits to the atmosphere,

not just to the aluminium industry.

So where to from here for the CPRS? If the last three months are anything to go by, the next three months will be very interesting. The government deliberately designed the CPRS to be so ineffective it thought the Coalition would have to support it. But rather than wedging the Coalition, Minister Wong's legislation has served merely to leave her own party out in the cold. The Coalition argues that we need to go further than five per cent and that the CPRS is deeply flawed. The Greens and the independent senators have expressed similar sentiments.

Penny Wong appealed to the Senate to support the CPRS not because it was good but because it was the only offer in town. Unfortunately for the government, that logic works just as well in reverse. After the Senate has amended the legislation to make it more effective, the government will hardly be able to argue that they can't support it because it will still be the only offer in town! §



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Institute out and about

The Australia Institute's profile as a credible and insightful source of research and commentary received a significant boost from the publication of *Fixing the floor in the ETS*. The paper prompted a number of invitations to Richard Denniss to present the research on the CPRS to a variety of stakeholders and audiences. These included:

February

1. The Centre for Independent Studies Roundtable on climate change policy with Professor Warwick McKibbin, Director for the Centre of Applied Macroeconomics and Analysis at ANU and John Humphreys, Research Fellow with the Economics Program at The Centre for Independent Studies.
2. Workshop with board members from Sustainability Victoria.

March

1. Joint seminar with Sustainable Focus in Adelaide for local council staff from the Cities of Charles Sturt and Onkaparinga. While in Adelaide, Richard also spoke at a public forum hosted by CLEAN SA.
2. Richard delivered a keynote speech on the CPRS to the Climate Action Network Australia (CANA) Conference as an introduction to a panel discussion which included the Deputy Secretary of the Department of Climate Change and John Connor from The Climate Institute.
3. Vital Issues Seminar at the Federal Parliamentary Library for senators and members on emissions trading and carbon taxes.
4. The Institute was also represented at another conference of note, the ACOSS/ACTU National Tax Reform Symposium, outlining the work on NewStart and superannuation reform.

Institute in the media

Listen to:

1. Dr David Ingles on *Australia Talks* discuss the great superannuation tax concession rort - <http://www.abc.net.au/rn/australiatalks/stories/2009/2511117.htm>
2. Dr Richard Denniss on *Late Night Live* with Phillip Adams discuss the flaw in the CPRS - <http://www.abc.net.au/rn/latenightlive/stories/2009/2500301.htm>

Read a transcript of:

1. Dr Richard Denniss outlining the flaw in the CPRS on *The 7.30 Report* - <http://www.abc.net.au/7.30/content/2009/s2511449.htm> and *Lateline* - <http://www.abc.net.au/lateline/content/2008/s2512620.htm>

There have been some staff changes at the Institute since the last newsletter.

We said goodbye to Louise Collett in February. Louise has been a tower of strength over the last couple of years, keeping the Institute on track and going forward during a time of much change and upheaval. Louise has left us to relocate to Melbourne and we wish her every good fortune for her next enterprise. She will continue to work with the Institute for some time as she is adapting her honours thesis into a discussion paper.

In January, Kerrie Tucker was employed on a part-time basis as the Institute's community liaison. She will help to disseminate the Institute's research to those likely to benefit from it most while building relationships and exploring mutually interesting areas for research.

Serena Rogers was employed in February to provide communication and media services to the Institute. Serena worked as media adviser to Natasha Stott Despoja and then spent some time overseas before returning to Australia at the end of last year. Serena has dramatically increased the media profile of the Institute and will also work on functions and events designed to share our research findings.

Tully Fletcher has been employed as a part-time administrative assistant since the end of February. Tully is completing his law degree and is at the Institute two days a week.

Josh Fear, who has worked as a researcher at the Institute for the last couple of years, was married in mid-March. We wish Josh and his new wife a happy and successful life together.