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ON THE BALL

WITH THE ACCC

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Put simply, the role of the ACCC is to apply the Trade Practices Act properly without fear or favour to anyone, no matter how powerful economically or politically they may be, for the benefit of all Australians, be they household consumers, farmers, people in cities or rural areas, or small, medium or large business – because all have an interest in being supplied competitively and efficiently and also in selling to buyers who have to compete for their output.

There is general support from the business community and the community at large for the Trade Practices Act. However, of course, when the Commission, which as you know is the enforcer of the Trade Practices Act, come knocking on individual doors then to a degree the usual fear and loathing apply. Indeed, a not untypical response when we approach individual firms about possible breaches of the Act, is to be assured by them of how strongly their organisation supports the principles of the Trade Practices Act. However, in this particular case we are often told, the behaviour of concern to the Commission has not actually happened. Moreover, if it has happened, it was not illegal, we are often told. If it was illegal, then there are others in the community to whom we should give priority because they are breaking the law in a far worse way. But if we do think that the matter is unlawful then it tends to be suggested that we should apply the regulator's discretion and not take the matter any further. If we do take the matter any further it should be in minimal form of something like a warning letter.

The ACCC believes, however, that the law must be upheld to everyone that it applies to, whether that be private sector or government business, to professions, associations, state utilities, agricultural marketing boards and even to unions to the extent that it applies to them. But in applying the law it is also very important to apply it intelligently. For example, with regard to merger law the economic questions raised are quite complex, challenging and difficult. So it's not just a matter of mechanically applying the law, but applying it with the aid

of the best criteria developed around the world and with the best investigatory methods.

Functions of the ACCC

These days the Commission has several functions under the Trade Practices Act (TPA).

- Part IV prohibits anti-competitive behaviour – cartels, anti competition mergers, misuse of market power, etc;
- Part V of the TPA is about fair trading and consumer protection;
- Part VII about authorisations;
- Part IIIA, a new part, is about access to “essential” facilities;
- Part IVA about unconscionable conduct;
- Part XIB and C about telecommunications.

The Commission also oversees the Prices Surveillance Act and performs some regulatory functions under yet other laws. The Act these days applies universally in the market for goods and services. But you might ask how does the Commission set its priorities and how does it deal with all of these activities in a coherent fashion? There are several key points that we bear in mind when setting our priorities.

The first is that the Trade Practices Act and all the Acts that we're involved in are about one thing – and the object is set out in the Trade Practices Act – to enhance the welfare of all Australians through the promotion of competition and fair trading and provision for consumer protection. This gives a clear focus to all of our work.

Let me give you one example from the merger area of how this works. As you know the Act prohibits anti-competitive mergers but they can be authorised if the parties can satisfy the Commission, and on appeal the Australian Competition Tribunal, that there is a sufficient public benefit. In the early days some parties went to the Commission conceding that their particular merger was anti-competitive, but said the Commission should have a look at the cost and benefits to determine if the merger was justified.

Both the Tribunal and the Commission have not accepted that approach. They see the competition and cost benefit questions as closely linked and as requiring an integrated analysis.

For example, to take the simplest case, supposing the only two firms in an industry merge and become a monopoly. That is highly relevant to the question of whether the benefits in the form of cost savings that may occur from the merger would actually be achieved. If there is no great competitive pressure on the new firm because it is a monopoly, then the possibility of there being a benefit to the public is reduced. Similarly, with other parts of the Act, such as consumer protection, even unconscionable conduct, competition and market power are the key concepts underlying them.

Secondly, the central function of the ACCC is to apply the law. It is not, generally speaking, a competition policy advocate nor is it the Commission's job to campaign for changes in the law even though many laws in Australia may still exist that restrict competition. Occasionally we are invited by the government of the day to become involved in a policy matter, such as last year's debate about amending the packaging and labelling requirements for parallel imports. But as a general rule, the Commission focuses on competition and on applying the Act rather than on competition advocacy. Advocacy is a function of agencies like the Productivity Commission and Graham Samuel's National Competition Council. The ACCC is not generally involved in the present reviews of anti-competitive laws.

The third way in which we focus our priorities is by placing an emphasis on the non-traded goods and services sector rather than the traded goods and services sector of the economy. The Commission believes that, with greater exposure to international competition and with lower domestic protection, much of the work we would need to do in this sector is being done for us by international competition. So our focus is principally on the non-traded goods and services sector of the economy, particularly on those parts where competition is less than ideal.

Fourth: The Commission also tries to focus its activities by avoiding detailed regulatory solutions to problems. For example, some merger parties approach us and say "this is an anti-competitive merger but we are willing to have our prices controlled by the Commission for a time afterwards to make sure there's no consumer detriment". The Commission is very reluctant to accept that kind of regulatory solution. While it is not ruled out totally, as a competition agency, we are very reluctant to accept that kind of resolution.

When setting priorities the Commission also takes account of the important fact that there is scope for private enforcement of the Trade Practices Act. Well over half the cases under the Act are initiated by private parties, principally by the affected businesses themselves. If there is a private dispute between businesses involving the Act and if the businesses are both able to look after their own interests and there are no public interest issues involved, then the Commission does not normally become involved. The Commission becomes involved in matters particularly where there is some public interest element and where people aren't able to protect their own interest.

Finally, the Commission also tries to publish its priorities from time to time. So if you look at Commission publications, you'll see statements on the kinds of matters it will take action on. Those which are of greatest concern to us include blatant breaches of the law, and behaviour that's both unlawful and that does harm to the community at large. We try to make our priorities as clear and consistent as possible.

Current activities

Against that background I will now discuss what the Commission is currently doing. Our central role continues to be to apply and enforce the law and to seek compliance by business. Most big businesses these days have compliance programs which involve the education of employees about their obligations as well as their rights under the Trade Practices Act. The Commission welcomes such compliance programs. The Commission is currently involved in about 35 cases in court.

Extension of the Act

Let me now move on to more recent developments. In November 1995 the Competition Policy Reform Act extended the application of the Trade Practices Act virtually universally to markets for goods and services. In the past the Act had been limited by Commonwealth constitutional powers so it applied generally only to corporate entities. State governments have passed complementary legislation which means the Act now applies virtually without exception in the business arena and we have initiated a number of cases and actions as a result.

For example, the health sector is one new area which has been opened up to competition. In this respect the Commission has initially adopted an educative role, with some assistance from private law firms. We have issued publications about the application of the Act to the health sector and we have given a number of speeches on the topic. We have also issued warnings to particular groups of doctors about behaviour which we've received complaints about, or certain behaviour which seems to be in breach of the Act. Generally our warnings have resulted in the behaviour ending.

However, we also recently took some anaesthetists to court. The Commission alleged that they engaged in a price fixing conspiracy that was unlawful and as well they had also engaged in a boycott of some Sydney hospitals. That is, they said they wouldn't work at the hospitals without a pay increase. We took court action and the anaesthetists were ultimately required to provide an undertaking to the Court that they would not engage in the conduct again.

The Commission has even taken the Weather Bureau (the Bureau of Meteorology) to court, not for misleading and deceptive conduct, but for monopolisation that is, for an unlawful withholding of their services. The point we wanted to make with that case was that the Act now applies to any government business activity. Government businesses are no longer exempt. If they breach the Act then they are just as liable as anyone else in the community.

Secondary boycotts

The Coalition government has greatly strengthened the secondary boycott provisions of the Act honouring its election promises. Both the House of Representatives and the Senate approved the legislative amendment. Section 45DB has special provisions regarding the application of the boycott law to the movement of goods into and out of Australia. That clearly covers some waterfront matters. The Commission has followed its usual processes of warning people about possible breaches of the law and when they have persisted with the conduct in question we have gone to court. The Commission has been to court on a number of cases: two with the TWU and one with the CEPU in which it got the outcomes we wanted; we're still in court with the CFMEU; and last year we took two cases about the MUA.

As I have said, it is the Commission's view that the law should be upheld without fear or favour. When we approached the MUA about its boycotts during the Patrick dispute we made it clear that there was a law passed by the Federal Parliament which prohibited secondary boycotts and it was not the job of the ACCC to override the clear Parliamentary intent. Our job was to uphold the law and we ended up taking court action. I'm pleased to say that in the end, after a little resistance, the MUA provided the undertakings we had sought. A court enforceable undertaking is equivalent to an injunction. A \$7.5 million damages fund has also been established for the small businesses and exporters that were affected by the secondary boycott conduct. I should note that the money was paid by Patrick, but as it was a damages matter we had no particular views on who should pay. The Commission firmly believes that where there is unlawful boycott activity that damages small business and exporters the law must be upheld.

Small business and unconscionable conduct

Another area on which the Commission is placing a lot of emphasis is the small business sector. It has been the clear intent of Parliament and of all sides of politics that the protection available to small business under the Trade Practices Act should be vigorously enforced. I should point out that many of the actions already undertaken by the Commission have benefited small business. While ACCC actions are often portrayed as being of benefit to consumers, which is true, it is most often small business that suffers as a result of price-fixing cartels or misuse of market power.

The unconscionable conduct law has also been strengthened and the Commission is now in court with three cases. One of the cases stems from the very latest changes to the law and the other two stem from slightly earlier changes. But the Commission and the government share the view that many of these problems cannot be solved just by litigation. In many cases, particularly in the so called "hot spot" areas of

the economy such as shopping centres, or where oil companies and service stations are involved, or franchisors and franchisees or independent film exhibitors and film distributors, the best solution is to develop codes of conduct. The Commission believes that the best way forward is to identify the chronic problems which often involve disclosure, or failure to adequately disclose what is involved in the relationship between a franchisor and franchisee at the outset of the relationship, or what to do when there is a dispute during the life of a tenancy.

Codes of conduct will enable productive solutions to these problems to eventuate and the Parliament has actually strengthened the industry code provisions of the Trade Practices Act. Indeed, the minister can actually mandate that a code be established in an industry. The oil industry has had a code that has worked very well over the years in resolving many of the issues between the oil companies and the service stations.

Mergers

I will now address the perennial question of mergers. The Commission essentially has a neutral if not somewhat positive attitude to mergers. We are fiercely against cartels at one end of the anti-competitive conduct scale, we are neutral to mildly positive on mergers, and at the other end of the scale we are unenthusiastic but resigned to some degree of regulation as a solution to some problems. Nineteen out of twenty of the merger proposals that the Commission looks at are not opposed. The mergers that we examine which might raise competition issues represent only a small subset of all merger proposals.

The vast majority of mergers are either too small or don't raise competition issues. ACCC concerns about a merger can sometimes be addressed with the provision of enforceable undertakings by the parties or agreement by the parties to amend their proposal to alleviate the ACCC's concerns. During my time as Chairman of the Commission we have not opposed any mergers where imports exceeded ten percent of the market. So in the traded goods and services sector the Commission has not opposed mergers. The Australian law differs from the US law. In Australia, it is possible for anti-competitive mergers to be authorised if there is a sufficient benefit. The merger parties have to satisfy the Commission and, on appeal, the Tribunal, that there is a sufficient public benefit. The onus is on the parties to demonstrate, not just assert that the anti-competitive merger will result in a sufficient benefit.

Merger law is not some kind of necessary evil. Merger law makes a very important contribution to the competitiveness and the efficiency of the Australian economy, including our international competitiveness. If we didn't have a merger law or we had a lax merger law, the economy would soon be filled with monopolies supplying our exporters and

import competitors in a very costly way that would hinder our ability to compete effectively internationally.

GST

The government has determined that the ACCC will play an important role in regard to overseeing pricing behaviour pursuant to the introduction of the GST and the other tax changes, some of which occur next July. At the present time a Bill is before the Senate to provide certain safeguards in relation to any price increases that are excessive in relation to the GST or price falls that don't properly reflect the net fall in tax. The government's pre-election tax package made it clear that this type of legislation would be introduced. Incidentally, I don't think there is any opposition to the Bill in the Senate even though it will grant the ACCC some quite strong powers. There will be fines of up to ten million dollars per offence for persons who charge prices that are not justified. The ACCC will police the new law but the imposition of these fines will be up to the courts.

As a general proposition it would appear to be fairly clear that there should not be a macro problem about pricing behaviour when the GST is introduced. As long as the macro economic climate is not expansionary or inflationary, then business will be flat out for the most part managing to pass on the tax rises. The macro economic climate is all-important and my impression, at the present time is that on the whole, business will not be easily able to raise prices any more than the "exact pass on" of the GST component. Nevertheless, Parliament is going to give the ACCC strong powers under the Trade Practices Act to deal with any cases where prices react excessively. The Commission, for its part, will shortly be approaching major businesses and business groups to seek their cooperation.

There will be an expectation of responsible behaviour on the part of business by the community, and competitive factors will also make business very careful about its pricing behaviour. From my own discussions with business leaders I understand that they will seek to cooperate with the new law and the ACCC's emphasis will be on prevention and compliance rather than becoming buried in a mass of litigation.

It should be noted that other parts of the law already apply to GST pricing issues. For instance, section 52 of the Trade Practices Act prohibits misleading and deceptive conduct. An example of the application of section 52 may be to instances where businesses put up prices now on the basis of a projected GST rise, or if a business says that it needs to put up prices now by 10% for some contract which falls due in two years time when in fact the GST only applies to a part of the business or where large off-setting tax reductions do not justify a 10% rise.

Microeconomic reform

The Commission is also, heavily involved these days in the sectors of the economy which are being deregulated such as the communications sector, particularly telecommunications; the energy sector, electricity and gas; and transport, airports and rail, and in particular, activities including access arrangements. For example, in the telecommunications industry the Commission is, at the present time, considering some draft determinations that it made in relation to access to Telstra's infrastructure. The Commission has drafted some decisions that would require Telstra to give access on an unbundled basis to their local loop.

The Commission has also, quite significantly, made its first draft decision on pricing in the telecommunications industry. This decision concerned the interconnect price for long distance and international calls. When you make a long distance call, you make a call from your home or small business to the local exchange then it moves on to the trunk. At the trunk the call may be picked up by someone like Optus and transmitted to another part of the country or elsewhere. At that trunk exchange Telstra gets the call back and sends it back to the home. So the question is what price should be determined for that process. The Commission is of the view that the price should be about half or even less than the price Telstra proposed.

As yet, the Commission has not become involved in pricing decisions regarding local access or local telephone competition but it may become involved in these areas in the future. To put it in extremely simple terms, this area of work would involve looking at the costs of accessing the link between your home or business to the local exchange but not on to the trunk.

The Commission has also been involved in some similar access and pricing questions in the energy sector. Where there are national grids in electricity or national pipelines, the Commission is involved in setting prices and determining the cost of capital of such assets.

International developments

Finally I'd just like to mention a few international developments because quite a lot is happening in this area. First, I want to point out that there has been a re-invigoration of US anti-trust law as demonstrated by the Federal Trade Commission's recent action against Microsoft and Intel. There has been a debate about whether the US anti-trust regulators should get involved in high tech industries, with opponents arguing that the high tech sector is too complex and evolving too fast for monopoly power to be established before it is quickly eroded. The message from the US anti-trust regulators is clear. They believe the market power that has built up in the industry is very great and even in short periods of time it can be exploited heavily. And so they have intervened in those cases.

US anti-trust regulators also have a very strong interest in international cartels and at present the US is investigating 35 major cases involving suspected international cartel behaviour. Ironically with trade barriers falling, firms in different countries are now quite often reaching anti-competitive agreements, when previously these Agreements could not be struck as trade barriers had existed which prevented any competition between them.

As well, there are numerous global mergers occurring. From an Australian perspective these mergers are not a huge concern because most of those mergers are not anti-competitive on a global scale. To the extent that they are, they are opposed by US and EU regulators, both of which are quite active. A situation may occur where a merger is not anti-competitive or not opposed overseas but is anti-competitive in Australia. However, if you look at past cases you will see that for the most part Australia has been able to come up with quite adequate solutions to such situations. For example, we took Gillette Wilkinson Sword to court for an offshore merger and basically got a good Australian solution where the Wilkinson Sword trademarks were sold to an independent person. Typically, the relevant assets can be sold.

With the Exxon-Mobil global merger it's possible, and I emphasise that this is only a possibility, that there could have been a problem because I think they once owned some gas assets in Queensland. Now, if there were, then the fact that the merger was global in nature does not mean that an Australian solution isn't possible. For example, those gas assets could be divested. In the snack foods global merger involving Pepsico and United Brands, the Commission formed the view that the merger would have a strong anti-competitive effect in the Australian snack food market. The Commission's concerns were, however, addressed by Pepsi divesting its existing snack foods business when it acquired the United Brands business. So very, very often there is a solution available in these situations.

And finally there is a vast policy agenda occurring at the WTO, OECD and APEC levels about getting better cooperation between countries in international competition and in particular, in stopping anti-competitive practices in other countries that hinder the access of our businesses to their markets. We are working quite hard, particularly in Asia, to get countries there to get serious about competition policy so that our exporters are not blocked from getting into their markets by anti-competitive practices.



THE ART OF

PERSUASION IN BUSINESS, NEGOTIATION AND THE MEDIA

Peter Thompson

Can I begin by talking about why I wrote this book? It's what breakfast presenters do after hours. It's our twilight zone if you like. We have to fill our life in one way or another. I was interested in going back to the great traditions in our society of argument and debate and advocacy. In my own life, I suppose my political coming of age has something to do with E G Whitlam. I graduated and finished school in 1970. It was a time of fanatical debates going on in this country. On the streets as well as on television, in radio and the newspapers, set around the Vietnam War, conscription and many of the things which, in a sense, came to being in 1972.

It was in 1972 that I went to Tasmania. On the Easter Saturday of 1972, I walked on Lake Pedder Beach. I must say that was a life changing experience for me. I left the beach feeling a different person. I witnessed there what I thought was a tremendous act of planned vandalism. In the weeks following Easter of 1972, Lake Pedder beach was flooded to satisfy Tasmania's growing demand for electricity. At the time it was projected that the Lake Pedder scheme would solve Tasmania's immediate electricity problems for a few years. What struck me was something equivalent to Uluru, or the Great Barrier Reef in terms of a national significance being destroyed for little gain. I decided I would do what I could to be involved in that campaign.

With Lake Pedder it was too late. But later on, the scheme which became contentious was the plan by the Hydro-Electric Commission to flood the Franklin River. I left the ABC to pursue that cause. At the time I was presenter of *This Day Tonight* in Tasmania. I joined the Australian Conservation Foundation and I worked for the next three years as an advocate in the campaign to stop the Franklin River Dam. So I was blessed in a sense, with being on both sides of the fence in terms of having had the privilege of working for the ABC and commercial organisations as a journalist where I accrued knowledge. Then as an advocate at the end of that period, working on a political campaign for three years.

After that campaign I went to the Australian Graduate School of Management at the University of New South Wales. In a sense this was to learn the cultural language of business because I realised the debate was moving from, if you like, the public resolution of ideas to the private resolution of ideas. I've just been briefly touring the United States. If you look at the shelves of leading US book stores these days, the works on organisation and business, on the Internet and communications, far outnumber and far outweigh other works on the political book shelves. The tectonic shift of ideas has been towards the private sector. This growing sense of things was why I went to the AGSM.

Fortunately I also managed to win a scholarship to spend a year studying at the Kennedy School of Government at Harvard where I was particularly interested in ideas of politics and economics. So, in a sense, the ideas that are in this book are the fruits of those experiences and from my role working for Radio National, which is at the knowledge end of the radio spectrum and with which I feel very proud to be involved.

Now the obvious question to ask about Aristotle is why are his ideas still important today? The technology that helped shape this century, just coming to an end, the distribution, for instance, of the telephone and moving images, have all occurred in the lifetime of my father. The development of radio and television. Just as the Internet shares are at astronomical levels now, so were radio shares in the 1920s. In the 1929 crash, just two or three radio companies survived in the industry. Most of the rest of them were never heard from again. If television had come first I have to agree, radio would have been regarded as a great advance, because it tells you more. It does all that television does but it doesn't distract you with pictures. The development of jumbo jet travel, computers, the digitisation of television and radio and now the Internet which is going to offer us many of those things converged. There are an infinite number of channels for information.

All of these things, when you add them together, make up what we call globalisation, which is fundamentally a communication revolution. It's the merging of markets and information. And right at the heart of the cross fire of information is the need to distill that information and make sense of it. That's why the thoughts of Aristotle, going back more than two millennia, makes sense to us today.

I have this quote in the book by management guru, Peter Drucker: "As soon as you move one step up from the bottom, your effectiveness depends on your ability to reach others through the spoken and written word". Ours is clearly a persuading society. Persuasion or selling ourselves and our ideas and our products is essentially what *homo sapiens* and *homo economicus* is all about.

I just want to make a couple of observations about social trends and to declare a campaign started tonight. In Australia, the art of

rhetoric, which was taught routinely to the young men of Greece, more than 2000 years ago, is not really taught in our schools. Consequently, what I've discovered in dealing with a couple of hundred organisations in the last ten years, is that young adults and even more senior adults, people in middle and high level management, don't understand the construction or the presentation of arguments. It was because of that concern that for a couple of years I went back to the place where I studied a decade ago, the Australian Graduate School of Management, and worked with MBA students on teaching just those things.

These were people with a high level of technical skills but without a competent skill or ability to express themselves. It's as simple as that. And as a general observation, I'll also say that in Australia, among managers, their general level of technical know how, far outweighs their communication skills. Like a good golf swing – which looks easy to achieve in theory – the art of persuasion is one you've got to practice.

We usually stand in an argument where we sit in our jobs. It's difficult to get into the shoes of those we wish to persuade. To think about an audience's needs and expectations rather than our own. To that end it was delightful to hear it said, last Tuesday night, at my daughter's parent/teacher night (she's in Year One), that the teacher tells her Year One students that when writing they must think about their audience. That's something which many adults fail to grasp. As Aristotle said, "The fool tells me his reasons. The wise man persuades me with my own."

It's also true that when you know too much about a subject it's difficult to cut through the arguments, reducing them, if you like, to the headlines. And it's particularly difficult to do that alone. It's difficult to balance what Aristotle called, the three corners of persuasion: Ethos or the development of trust and character with logos, the logic of persuasion, and pathos, the passions or emotions. Most leaders in business and organisations tend to ignore the ethos and pathos and focus purely on the dry technical arguments or the evidence, the logos in putting forward their case. Also it's surprisingly difficult to make it a habit of mind to talk of issues in terms of images. As Aristotle said, this the most important thing by far – to have a command of metaphor. There's room for only one message when we speak. The art of persuasion requires the curious and difficult synthesis of mind and heart, body language and voice.

It's certainly true of most of us that we compete for the jobs we do. There are many other people on the block who have the same qualifications we have. Many of us have formal education at a very high level. It's certainly true of people in their twenties and thirties. Masters degrees are common currency. When it comes to differentiating oneself from someone else, your ability to express yourself is the only thing which counts.

Let me go back one more step and talk to you for a moment about what Aristotle had to do with this. Why was persuasion important in the Athenian democracy? Sometime in 340BC, Aristotle began to offer a course in rhetoric. His famous tract, now published by Penguin, is called, *Aristotle, the Art of Rhetoric*. It is absolutely unreadable, but it is one of only two books on rhetoric surviving from the classical period. The other is called *The Rhetoric for Alexander*. These ideas were in fact lost for centuries before being rediscovered in Roman times. So, in fact, they were out of circulation for a long time.

Aristotle came to write the rules of rhetoric as he taught it. Unlike our modern Australian practice, throughout both the Greek and Roman periods, the study of rhetoric was a formal part of the education of young men. Rhetoric had a great practical application. Greek legal practice, unlike Roman, required the citizen to present his own case in court. Women, naturally, were excluded. If brought to court, they had to be represented by a male relative. There were no lawyers. So the obvious question is, how long could an empire like that last?

Then there was the Athenian democratic legislature. George A. Kennedy in a fine book called, *A New History of Classical Rhetoric*, writes:

The government of Athens was largely administered by officials elected by lot for terms of a year at a time which we could regard as the most democratic method. Legislative power lay with the assembly, that is the ecclesia, of all adult male citizens meeting regularly. Several thousand were often in attendance. [God help the speaker]. Although anyone who wished could speak in meetings of the Assembly, the leadership role was taken by individual rhetors or political speakers. These speakers represented the views of shifting factions within the state and varying degrees of democratic or oligarchic ideology. There were, however, no organised political parties. Some of the rhetors were persons who strove with vision and integrity. Others, labelled as democrats, sought power, wealth and influence for themselves. [What's changed?] Athenian politics was very volatile and the city was easily goaded into rash actions by the enthusiasm of the mob.

In the 380s BC, Plato set up a school of learning and philosophy known as the Academy. His most renowned student was Aristotle, who joined the Academy at 17 and remained until after Plato's death at which stage he went off to tutor, among others, Alexander the Great. At that time Alexander was a thirteen year old Macedonian prince. Plato was greatly disturbed by the techniques which had the effect of making the weaker argument the stronger. He was convinced these means were used to build an unjust case against Socrates in his famous trial. Socrates rejected the injustice which arose from verbal trickery, blaming deceptions on the "wise men" known as sophists, the most famous of whom, Protagoras, believed that there were no universal truths. Man is a measure of all things was the belief of Protagoras, of things that are,

in so far as they are, and of things that are not, in so far as they are not. If nothing is known for sure, the art of rhetoric becomes decisive in persuading the populace to arrive at conclusions and make judgments. Sophists specialised in teaching the methods of argument.

Socrates was plunged into this dubious moral context to defend his life at a trial which took place in a politically unstable interval following the conclusion of war with Sparta. Accused of blasphemy and corrupting the morals of youth (he was in fact gay) through heretical teachings, Socrates became something of a scapegoat for the declining power of Athens. At his trial arguments heard by the sophists prevailed and Socrates was condemned to death. He declined an opportunity to escape and committed suicide by drinking hemlock.

In the *Apology*, Plato confronts the evil use of oratory as he records Socrates' address to the judges who have condemned him. Says Socrates at his trial:

Perhaps you think, oh Athenians, that I have been convicted through the want of arguments, by which I might have persuaded you. Had I thought it right to do and say anything so that I might escape punishment. Far otherwise: I have been convicted through want indeed, yet not of arguments, but of audacity and impudence, and of the inclination to say such things to you as would have been most agreeable for you to hear, had I lamented and bewailed and done and said many other things unworthy of me, as I affirm, but such as you are accustomed to hear from others..., but I should much rather choose to die having so defended myself than to live in that way.

That was the moral tradition in which Plato was tortured by the idea of the uses of argument and advocacy. His most famous and greatest student was Aristotle, who for the first time wrote down the codes of practice in developing an argument. In 338BC, after his time tutoring Alexander the Great, Aristotle returned to Athens and founded his own school in the gymnasium of the Lyceum in 335. He taught there under a covered walk known as the peripatos. His students became known as peripatetics. In the afternoon he'd teach rhetoric which is, as he defined it, an ability in each case to see the available means of persuasion. That, I might add, is the simplest translation of his whole book.

The essential foundations of the argument of Aristotle in his rhetoric involved three things: First, ethos, or if you like, character. Aristotle put it in terms of "how can I establish myself as a trustworthy speaker". This is where Bill Clinton ran into some difficulty recently with "I did not have sexual relations with that woman". There was also logos or language and pathos or passion. It's interesting if you look up the modern definition of pathos, as well as passion, it refers to pain. I might say, working with many organisations, I find particularly at the level of senior officers and chief executives, they're very reluctant to actually talk honestly about the pain that organisations go through.

Therefore they tend to make their organisational communications hollow and insincere. Quite simply, it's a waste of money. Nobody believes it.

Aristotle suggested that there were five things within the context of ethos, logos and pathos that needed consideration. One was invention, which was the identification of the key question that had to be answered. The second was arrangement. Arrangement is simply the structuring of an argument. Thirdly, style or choosing persuasive language. Fourthly, memory, that is devices for memorising speeches. And fifthly, delivery, the use of voice and body language.

Invention is getting to the key question. What key question is the report, the presentation or the talk trying to answer? Defining the crucial question as a means of getting to the truth is a direct contribution from Socrates' thought. As Voltaire said, judge a man by his questions, not by his answers. A Sydney QC, Tom Hughes, put it once in the *Weekend Australian*, "The key to success in law is to pick the real point of the case, don't flog the ones that don't have legs. Be brief but thorough." It seems simple but is, in fact, very difficult to achieve.

Secondly is the issue of arrangement. The Greek-Roman tradition of arrangement divided speech into four simple parts. Great speakers such as Hitler, Churchill and Martin Luther King were specialists in doing precisely this. The first part is creating good will. Putting the audience in a receptive frame of mind. The second part is stating the background: clear, brief and precise. The third, the proof, usually begins with a proposition. The proof of the case, as Aristotle put it, by using all available means of persuasion such as showing the benefits that will result in appealing to the listener's self interest. And fourthly, the speaker reserves his strongest appeal for the climax such as an appeal to self interest on a higher plane. As Carl Jung said about Hitler, "He magnified the inaudible whisper in the German soul."

In working with people that I spend time giving counsel to, I give a modern spin to these structures. Take the Five Point Plan, outlined in my book, which is exactly how Billy Graham structures his talks to his evangelical audiences. "I have sinned," is the "Bait". The "Problem" is that we are all sinners. The "Solution" to the problem is turn to God. The "Payoff" is "we will be saved". The call to action is "get down with me and pray." Every Billy Graham speech followed those five points. They are also a very common structure in modern commercial advertising.

Let me give you an alternative example of structure from the script of "Bananas in Pajamas". B1 and B2 are having a birthday. This is the "Situation". They are planning a party for themselves but don't tell their neighborhood friends, the Teddies, until the last minute. What upsets the status quo is the "Complication" that the Teddies are unaware of the Bananas' plans. They're organising their own surprise

party for the Bananas. The obvious "Question" is what will happen as the two parties are planned secretly and to occur on the same day. The dramatic unfolding of the plot comes in the "Answer" which is a great deal of confusion, but it all ends happily with the Bananas and Teddies sharing what they'd purchased. That essentially, with one or two diversions by way of twist to the story, is the essential plot line of every Hollywood movie. And it will serve you well, as it serves people in buildings such as this who are very highly paid management consultancies who use exactly that structure in dealing with their clients.

By way of style, Aristotle said that the most important thing by far is to have a command of metaphor or as John Locke put it, "the ideas and images in men's minds are the invisible powers that constantly govern them". A metaphor is simply talking about something in terms of something else. Metaphors work because they focus an argument. They are a great and ancient story telling tradition. Such as in *Exodus* - "A land flowing with milk and honey". Or in Matthew - "Follow me and I will make you fishers of men", or also in Matthew - "It's easier for a camel to go through the eye of a needle, than for a rich man to enter the Kingdom of God". Or in Shakespeare.

Winston Churchill of course is the godfather of modern metaphor. Kennedy acknowledged as much when he said that, "Churchill mobilised the English language and sent it into battle." And Churchill's 1953 Nobel Prize citation referred to his oratory as well as prose. About Hitler he said, "The German dictator, instead of snatching the victuals from the table has been content to have them served to him course by course. On hopes for a better world: In the past we've had a light which flickered. In the present we have a light which flames. And in the future there will be light which shines over all the land and sea." And about the emerging Cold War, "from Stettin in the Baltics to Trieste in the Adriatic, an iron curtain has descended across the continent."

We have a notable history of the political metaphor ourselves. E G Whitlam when he described McMahon as "Tiberius with a telephone". Or Hayden's farewell remarks about a drover's dog running the country. Keating, who was a master of this, would stand in his office saying, "What is the image we're going to use today?" In parliament, he asked about the sometime opposition leader, Andrew Peacock, "Can a soufflé rise twice?" On the day that Keating used the banana republic image, the dollar went through a five cent cycle. Down then up. No facts or figures, just the power of the metaphor. And also very effectively, the Coalition used the image of "five minutes of economic sunshine" to corner a hapless Ralph Willis, the treasurer. Willis kept pointing out that the figures indicated that Australia had never had a more consistent series of quarters of growth but the Liberal's image cut through the message. What was so good about that image was that it also tapped

into the feeling in the electorate. So it was a combination of image plus feeling creating a very memorable message.

I just want to make a few remarks about body language. Clearly it's not just what we say, it's how we say it. There are many hundreds of body language gestures and we're all born experts at being able to interpret them.

Albert Mehrabian at the University of California in Los Angeles found that in trust exercises, where there's incongruity between text or words, the tone of voice and the visual delivery of a message, the audience places their trust overwhelmingly in what they see to the tune of about 55 per cent. We trust the tone of voice to the tune of 38 per cent. And then, with virtually no significance, we trust the verbal content only about 7 per cent. Ask a child did they take some lollies and if you get the answer after a long hesitation, you'll know that you too place your trust in the tone of voice and visual content of the message. This is all summed up in the beautiful novel *Snow Falling on Cedars*. It's the story about the trial and murder of a Japanese American in a remote community in North America soon after the war. In his face he knew was his fate, as his defence lawyer asserted at the start of things. There are facts, he said, and the jurors listen to them but even more they watch you. They watch to see what happens to your face. How it changes when witnesses speak. For them the answer is how you appear in the courtroom, what you look like, how you act. And I think the Lindy Chamberlain case is all we need to examine our own consciences on how we were swayed by body language of an accused person.

Well naturally this is a far too inadequate time to talk about the richness of the messages in my book, but I want to close and demonstrate to you, this being the New South Wales election campaign, one final quote. Michael Deever, who was a communications advisor to President Reagan, said that the art of getting the message across was to be focussed, endlessly repetitious and also extremely disciplined in not being side tracked. And I think from the ABC archives I might close this short talk by giving you an example of someone who is focussed, endlessly repetitious and disciplined in not getting on to the wrong track. The background to this is that my former boss, David Hill, was invited for a brief time to oversee the New South Wales railways once more. This followed Labor Party research which indicated that the state government would be turfed out of office if they couldn't get the trains to run on time. On the day of the great announcement, this following exchange took place between Bob Carr, the NSW Premier and the assembled media.

Presenter: Mr Carr was at his populist best when he equated a train being on time as virtually a human rights issue.

Bob Carr #1: I believe the people have got a basic right to get to work on time, to get home on time if they're using public transport.

#2: Again I say that we, all using public transport, have got a right to a system that operates on time.

#3: We'll see that the system will enable people to get to work on time and get home for dinner on time.

#4: A system where people stranded on railways are wondering if they're going to be late for work or getting home. And that's not good enough.

#5: And I don't want people to be late for work, I don't want people to be late for dinner.

#6: I want to see that anyone going work in the city is not going to be embarrassed by getting there late. I want to see everyone arriving at work; gets there on time, be it 7.30 or 8 o'clock instead of being embarrassed by getting there forty minutes late.

#7: I'm not going to have it said that people can't get to work or home on time.

#8: I want to see that the people in this state are able to get to work on time and are able to get home on time for dinner.

Well, remember, he is a former journalist. And this is why journalism itself is such an intellectual calling. So after seeing that, I'm sure if you had any thoughts of joining the journalistic flock you'll change your mind instantly. But, as Bob Carr knows, in communication there's only room for one message.



SCAPEGOATING

MULTICULTURALISM: THE COMPLEXITIES OF THE IDENTITY DEBATE

Petro Georgiou

May I start by thanking you for coming tonight and particularly Anne and Gerard Henderson for their kind invitation¹.

Multiculturalism has been an Australian success story for more than 20 years. It involves the right of all Australians to express and share their individual cultural heritage, the right to equality of treatment and opportunity and the removal of discriminatory barriers. It also involves making a commitment to Australia and Australia's interests, to the basic structures and principles of Australian society – the constitution and rule of law, parliamentary democracy, tolerance and equality, freedom of speech and religion, and English as the national language. But, despite its success, it has been made a scapegoat.

Some saw a giant multicultural "industry" emerging. Others muttered darkly about the establishment of ethnic community power centres and the descent into "warring tribes". Some saw it as undermining the revolutionary progress of the ethnic working class.

Frank Devine warned of the "zealots of multiculturalism, many nursing a hatred of the Anglo majority". Bob Birrell spoke of multiculturalism providing the "fuel for those arguing we are becoming a nation of tribes". Peter Walsh claimed that multiculturalism "has corrupted political processes and public administration." And now, we have Paul Sheehan who alleges that ethnic industries abound, thriving on exorbitant government handouts.

Many have rebuffed these attacks on multiculturalism, and I want to pay tribute to those defenders of multiculturalism, people like Gerard and Anne Henderson, Colin Rubenstein, James Jupp, Greg Sheridan, Jim Gobbo and many others.

In the main their rebuttal was a positive affirmation of multiculturalism's contribution to Australia. The fact is that multiculturalism engendered community support. Multicultural policies and programs were implemented. Despite impediments and resistance, multiculturalism's institutional reforms survived changes in governments and administrations.

We are not a perfect society. The process of reconciliation is still ongoing and there remain pockets of racism and intolerance in our community. But the overriding fact is that, rather than a fractured, divided society we can boast one that is internationally unique – a tolerant cohesive community of more than 100 different ethnic cultures. And yet, despite this, the critics have persisted. This is their right in a free society, but it is legitimate to say that some displayed a cavalier disregard for the facts.

For more than 20 years multiculturalism has survived a primitive chorus of falsehoods and allegations of “multicultural industries”, “ethnic riots”, tribes, ghettos and social engineering. These attacks have not abated. Indeed, they have been given a new dimension which I will return to later.

When Australian multiculturalism was first acknowledged in the 1970s, it was a response to the reality that post war immigration had changed the face of this nation.

In one of the largest and most diverse human immigration waves in the twentieth century, migrants from more than 100 different countries came to Australia.

All sought a better way of life. Some craved the liberty and freedom denied to them in their home country. Others longed for open spaces and opportunity. Some sought only to flee cruel and barbaric inhumanities – bitter years of racial and cultural persecution, intolerance, war and genocide. They wished for the opportunity to live happy, healthy, prosperous and free lives; and the right to live with dignity, respect and equality. For many, this meant retaining valued aspects of their cultural heritage.

To try to understand this, let's reverse the situation. Between 1947 and 1973 some 300,000 Italians migrated to Australia. Imagine if, in just some 20 years, 300,000 Australians were, at Italy's invitation, to settle in that country. It would be reasonable to expect that such a group would maintain contact with its Australian heritage. They would probably like their children to be able to learn English. They would probably continue to speak English among themselves. They would appreciate being able to follow Australian news, sporting and cultural events through English language newspapers, radio and television. And they would hope that native Italians would respect their Australian identity while still respecting them as valued citizens of Italy.

This is more than an imaginative exercise in putting ourselves in the place of the migrant. It reflects every day reality in Australia. The fact is that the massive wave of post-war migrants to Australia participated ever more fully in Australian society. They committed to Australia, to our legal and democratic values and institutions. At the same time they created the schools, the religious institutions, and the voluntary associations that would help preserve the components of the

distinct heritage that they valued, and to help successfully settle further migrants. These commitments and institutions were the basic ingredients of multiculturalism. They were not concocted by politicians or bureaucrats. They were not imposed by some elite. They were not the artefacts of any so-called ethnic industry. Multiculturalism was made possible because of the commitment and efforts of our grandparents and parents.

It was only many years after this network of institutions was established that governments adopted a policy to meet the reality of the diversity created by our post-war immigration program. A less successful migrant experience would not have given our nation the foundation and confidence to support and encourage cultural diversity. A weaker nation would not have had the courage to build on that foundation.

Multiculturalism was an outgrowth of the best of the core values of Australian society. Not all of them, just the best. Liberal democratic traditions of respect, equality and the rule of law, as well as intellectual, artistic, cultural, religious and political freedoms. The opportunity for equitable advancement and an inherent sense of fairness.

Multiculturalism was not a vehicle by which Australian culture was to be extinguished or denigrated. Nor was it an experiment in social engineering. Rather, it was a simple policy of equity. It was the articulation of classical liberal philosophy. It was about honouring the very basic obligations that democratic social institutions have to their citizens, regardless of the culture from which they originate.

So at a basic level multiculturalism argued that a fundamental public service such as a police force should have the capacity to communicate effectively with a linguistically diverse society. Similarly, an education system needs to accommodate the diverse needs of those who are not native to Australia. It is a basic philosophy of respect for the needs of a nation's people.

Multiculturalism was a rejection of assimilation. It understood that we couldn't make people Australians by demanding they renounce heritages they value. It was a rejection of notions that Australians must conform to a common stereotype. It embraced and encouraged the diversity of cultural identities and it did so while reinforcing the overarching values of Australian democratic pluralism: the rule of law; a commitment to parliamentary democracy and its institutions; and a commitment to mutual tolerance and respect.

I believe we can take pride in the Fraser Government's courage. It replaced a discredited assimilationism with the fundamental principles embodied in the Galbally Report:

"... equal opportunity and equality of access to general services, the provision of special services where these are needed; respect for cultural diversity; consultation, self-help and self-reliance."

By embracing these principles, the Fraser government made an evolutionary leap. For the first time it institutionalised multiculturalism and for the first time our government demanded that its departments, statutory authorities and services become responsive to the diverse needs and requirements of our changing population.

As Malcolm Fraser said in 1981, multiculturalism "is not an abstract or alien notion, not a blueprint holding out utopian promises, but a set of guidelines for action which grows directly out of our society's aspirations and experiences."

Multiculturalism has positively contributed to Australian culture and its values. Its overriding ethos of tolerance and harmony has contributed to the fact that the conflicts of the international community have rarely played themselves out in Australia despite our extraordinary diverse population and the passion of some of those conflicts.

Its commitment to social harmony and tolerance has reinforced the character of Australian democratic society. Ethnic diversity is a fact of life in all cultures. In many countries however, it is repressed and divisive – as we have seen in Bosnia, Rwanda, Sri Lanka and many other parts of the world. In Australia, a mixture of constructive leadership, good policy and creative thinking saw multicultural policy enhance, enliven and enrich Australian life.

And the fact is that the majority of Australians have embraced multiculturalism. At the height of Hansonism support for multiculturalism ran at between 70 and 78 per cent in AGB McNair and Newspoll.

And yet, despite this community support for the policy, there remains a chorus of critics that allege that multiculturalism has divided our society by encouraging the emergence of ethnic power blocs. They seem incapable of accepting that an ethnic community organisation does not equate with an ethnic power centre or tribe or an ethnic industry or any other disparaging description. The truth is that such organisations are part of the legitimate expression of community interests in a diverse and sophisticated pluralist democracy. It is the nature of our democracy that we see many and varied such groups at work in Australian society serving the interests of their members.

It does strike me as unusual that the formation of an industry or professional association to lobby government is recognised as a necessary reality of modern society, whereas the formation of an ethnic community representative group or a collection of such groupings is disparagingly seen as the rise of an ethnic industry or a worrying and dangerous new power centre.

Government provides financial support and assistance to all sectors of Australian society. We provide billions every year to industry, science, arts, sport and to a multiplicity of special interest groups. Much of this assistance goes unremarked upon. But our expenditure on

multicultural programs or immigrant settlement programs, comparatively small as it is, has become the focus for endless accusations of rorts and special treatments. By distorting the real expenditure on these programs, critics like Paul Sheehan, and before him Stephen Rimmer, have generated a number of false and misleading accounts of purported government funding of ethnic communities.

For example, Sheehan alleges that national expenditure on multiculturalism is \$2 billion annually, whilst Rimmer estimates it to be \$7 billion. How high can the bidding go? And yet at the Federal level at least, the 1998-99 budget allocation for the entire Immigration and Multicultural Affairs portfolio is \$563 million. Most of which has nothing to do with Multicultural Affairs but is spent on the movement of people (tourists, visitors, business people) in and out of Australia.

What these critics of multiculturalism seem not to appreciate, is that it was the years of anti-multicultural propaganda, claims about ethnic funding rorts, dire warnings of the creation of tribes, scare mongering about the creation of powerful ethnic leaders that has all found expression in Ms Hanson. If one looks at Ms Hanson's comments on multiculturalism one does not need to be a rocket scientist to see the progeny of many years of attacks on multiculturalism.

Let me quote Ms Hanson: "Multicultural policy operating through the power of the ethnic lobby is creating divisive ethnic politics" or "the billions of dollars spent on the divisive policies of multiculturalism will be redirected to benefit all Australians not the minority interests whose funded existence continues to assist in dividing us."

But the all too apparent lesson is that the constant chipping away at multiculturalism has ultimately had a corrosive effect. The litany of false claims, exaggerations and distortions have found expression in one of the most divisive and manipulative politicians in Australian history. Hopefully Ms Hanson is now a spent force – time will tell.

Whilst public support for multiculturalism has endured, there is no guarantee that this will continue in the face of a continued barrage of attacks. Screaming headlines, like "The Curse of the M word", convey a sense of failure of a policy that has been overwhelmingly successful.

Today we are seeing a new breed of critics, who have developed what appears to be a far more sophisticated assault on multiculturalism. They accuse it of being an impediment to the Australian identity.

The new attack on multiculturalism, as a barrier to the realisation of our true identity has made multiculturalism a scapegoat in a more complex fashion. There are two prongs to this critique. One prong attacks on the ground that multiculturalism has either denied or denigrated Australia's historical identity. Simultaneously, the other prong blames multiculturalism for impeding our progression towards their vision of a new Australian identity.

Two proponents of this latter school of thought are *The Australian's* Paul Kelly and Professor Stephen FitzGerald. Both argue that multiculturalism served as an impediment to the development of their ideal of a new Australian identity. For example, Kelly in his work, *The End of Certainty* suggests "It is true that Labor pandered too much to the ethnic lobby; its enthusiasm for multiculturalism detracted from the promotion of an Australian identity....." According to FitzGerald, it was multiculturalism that impeded the development of Australia's identity to meet the new focus on Asia. In his recent book, *Is Australia an Asian Country*, FitzGerald claims:

There had been a moment, in the late 1970s, when the ending of the Vietnam War, East Timor, the new relationship with China, the boat people, and a dim awareness of how important Japan had become to us economically, produced some concentration of Australian attention on its Asian neighbours and on what manner of society we were, or wanted to be, in this neighbourhood. Multiculturalism turned the discussion of identity inwards upon itself, and it developed in what was an unforeseen and I believe entirely negative direction.

Multiculturalism to FitzGerald distracted attention from the direction that Australian identity should have been taking. Professor Brian Galligan, writing in the November 1998 edition of *Quadrant*, presents a variant of the FitzGerald theme. Galligan bemoans the fact that, as Australia approaches its constitutional centenary, there is a lack of self-assurance among Australians. The cause, according to Galligan: "In the absence of a positive articulation of Australia's political community and citizenship, multiculturalism increasingly filled the void from the 1970s on ... Multiculturalism was inappropriate, however, as an articulation of our national identity..."

But of course multiculturalism never sought to articulate an alternate national character. Our identity is not a social entity devised in the halls of academia or Canberra. And multiculturalism is not some surrogate form of national identity. It is an integral component, but not itself the entity – in the same way that a wave is part of, but not itself an ocean.

For these critics, Australia's identity is considered inadequate to either meet the demands of the future or the region. So their attention turned to multiculturalism – as a scapegoat for the inability to develop the Australian identity they desired. However, the other prong of identity theory sees multiculturalism, not as the roadblock to our identity being refashioned, but as having denied and excluded an already developed and significant historical identity. Thus John Hirst suggests that "multiculturalism became an indictment of Australian society and ultimately a denial of its very existence...." Similarly, Michael James, the editor of the magazine *Agenda* accuses multiculturalism of denying Australia's historical identity, achievements, and val-

ues. Multiculturalism, says James, "suggested that migrants need not try to adapt to Australia, because Australia would adapt to them, as if Australia were a sort of cultural terra nullius in which the residents way of life had no priority over those of the migrants."

But multiculturalism never defined or replaced Australia's identity. It did accept the primacy of our political and legal system and the centrality of English as the national language. It was a recognition of a social reality and the impact on Australian culture on that reality. It did not seek to extinguish our traditions and values but sought to reaffirm and complement Australia's cultural strengths.

Multiculturalism was an intelligent and necessary response to the diversity of our immigrant population, to the need for equity in the government services provided to them and to the need to accommodate the unique cultures that our migrant population has brought with it. And rather than in any way seeking to extinguish that culture, it embraced it while successfully encouraging an overwhelming commitment to Australian core values. James conjures up the imagery of multiculturalism encouraging a nation of immigrants contemptuous and dismissive of the way of life they found here. That is false. Australia's immigrant population overwhelmingly valued the Australian way of life, and added their own dimensions, to the enrichment of all Australians.

The great irony is that those who believe that multiculturalism treated Australia as a cultural terra nullius, so fundamentally misunderstood the issue that they made multiculturalism a scapegoat for attacks on Australian identity of which it is not guilty. With the impending new millennium, the Centenary of Federation and the republic referendum almost upon us, let alone the discussion about the preamble, our reflection on our identity is intensifying as it intensified in the approach to Federation nearly one hundred years ago.

At this time in the last century, Australian identity was in the process of being engineered on the basis of White Australia, later expressed in the *Bulletin's* motto "Australia for the white man", which effectively dismissed not only Aboriginal Australians, but also Asians and the entire female half of the population. Thankfully, few Australians would want to go back to that expression of identity.

Multiculturalism does not inhibit us from defining our national identity. An authentic Australian identity for the next millennium cannot be achieved through a rejection or denial of the positives of Australia's reality. Multiculturalism is part of that reality. It is not the sum of it, but it is an integral component. Discrediting our achievements in order to redefine who we want to be is the politics of scapegoating.

There is no end to the task of identifying ourselves as a nation. What is certain in my mind is that multiculturalism has added another dimension to Australia's national identity which relied on and brought

to the fore some of the best things that hold Australia together and that differentiate us from other nations.

Australia has a strong and continually evolving identity. It is rich. And it is the sum of our historical experience. It is not solely multiculturalism. Nor is it the republic debate, pre-1965 Australia, pre-federation Australia, Aboriginal or Anglo Celtic Australia. It is the sum of all these and more. But even though our identity warriors try to define it as one or the other, to turn it into a battleground for their grand plans or reactionary status quo, our identity will continue to evolve and strengthen.

Before I conclude tonight, I want to leave this message – ours is an overwhelmingly tolerant and cohesive society. Multiculturalism embraces the best of Australia's values. It is part of our traditions and history. It is part of who we are today. We cannot deny who we are, or what we were, if we are to create an honest future.

In a nation that places freedom above all else, people cannot be free if they cannot be proud of who and what they are. They cannot be free if they must be ashamed to wear a turban. They cannot be free if they cannot pray at the mosque at lunchtime. They cannot be free if they cannot hang a Chinese sign outside their store.

Multiculturalism gives our nation that freedom. It gives our people the dignity to be Australian, without denying their heritage.

Endnote

1. This speech is dedicated to George Camakaris.



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1. Simon Crean, Susan Ryan
 2. Catherine Briggs
 3. Andy Small, Jerry Small
 4. Ian Spring, Sheila Johnstone
 5. Alan Cadman, Tanya Pibersek
 6. Kerry Thomson
 7. Ian Bassett, Elizabeth Elenius
 8. Vanessa Fazzino

9. Margaret Stanton, Sharon Horgan,
 Jenny O'Neill, Patricia James
 10. Margaret Bell
 11. Tim James & friend
 12. Shirley Dakin, Betty Ingamells,
 Margaret Szalay

Photographer: David Karonidis



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STRICTLY

BOARDROOM RE-LAUNCHED

Fred Hilmer

Introduction – Michael Shepherd

I was delighted to be asked to speak at this launch of the second edition of *Strictly Boardroom*. I take it as a sign of consensus that Australian Stock Exchange is no longer cast as the villain in what used to be called, euphemistically in my opinion, the corporate governance debate. There was one memorable day when *The Australian* carried a five column headline saying “ASX Proposals Too Soft – Bosh”. *The Sydney Morning Herald* on the same day countered with, “QC slates ASX Plan Changes”, which was based on the contention that we’re being too hard in an aspect of our proposed corporate governance approach. The QC incidentally was Andrew Rogers and he now chairs a board of which I am the vice chairman.

During the heat of that time when we were regularly being portrayed as villains for refusing to introduce restrictive corporate governance or occasionally because it was thought we were going to, the original *Strictly Boardroom* came like manna from heaven. It was common sense and helped us enormously at that time. When we’re told we must prescribe the majority of external directors as best practice, for example, we could point to the discovery by Fred’s group of the US evidence indicating that an independent board had a negative, or neutral, effect on company performance. And that companies with managed dominated boards actually committed fewer corporate crimes. Not that the facts mattered too much to some people in the debate at that time. Now the dust has settled, there seems to be general agreement that our disclosure based approach is working well and is certainly preferable to the chaos that seems to be apparent in Britain.

Speaking of Britain I treasure an article in *The Financial Director* last year where they compared various company reports and in which Robert Maxwell would have emerged as a saint under the post Cadbury super code. The alternative to a Cadbury style subscription is disclosure based on information. And in that environment publications like *Strictly Boardroom* have great importance. The reason is that directors

don't just have a series of boxes to tick as their corporate governance statement. They need advice on what a respected group of their peers regards as best practice, so they have a yard stick against which to measure their own company policies. They don't have to follow all or indeed any of the practices that are recommended. If they don't, they will at least have recognised the need to justify to themselves that their reasons for not following them are valid. Having done that, they need to justify themselves to their shareholders in the annual corporate governance disclosure statement. In the knowledge that many of those shareholders will be well aware of what is regarded as best practice. The reason they will be aware of what is best practice is because of *Strictly Boardroom* and other corporate governance guides. Which is another invaluable service that these guides offer.

If the boards don't satisfy their shareholders, they will pay a price. The McKinsey study a couple of years ago, found that investors were prepared to pay a 16 per cent premium for shares in companies with sound corporate governance practices. That sounds like a worthwhile incentive to me.

We at ASX see ourselves as partners with the experts who recommend what best corporate governance practice is on the one hand, and with shareholders on the other. The experts recommend, we ensure disclosure, and the shareholders judge. I believe that's a pretty good arrangement in a free market.

It is for all those reasons that I welcome this new and improved version of *Strictly Boardroom*. I'm sure it will have the same success that its predecessor had and therefore I take great pleasure in launching the second edition of *Strictly Boardroom*.

STRICTLY

BOARDROOM – REVISED EDITION

Fred Hilmer

Strictly Boardroom represents a watershed for me, particularly this edition, since it's probably the last thing I'll write for some years, having left the University and taken up, some would say, real work for the first time. If you ever want any evidence that the Fairfax offer came out of the blue, it's that I was actually working on a second edition at the time it came and then had to rush through to completion while starting a new job. The book wasn't something I would have taken on had I known what I was walking into. But I was pleased to get it finished and I think it's come together well. What I'd like to do is give you some background on why we did the book in the first place, what's different, and what are some of the issues that are now emerging in corporate governance.

I think titles are very important. Of course I now say headlines are important. But titles are important. The title *Strictly Boardroom* probably had as much to do with the success of the book as the contents. It was a great title. We pinched it unashamedly from the movie *Strictly Ballroom*, with permission, and I have to give one of my colleagues a lot of credit for that – Lex Donaldson – who is terrific at titles. He was the co-author with me on *Management Redeemed*.

If we hadn't come up with the title of *Strictly Boardroom*, I'd probably have used the title, *The Accidental Director*. The reason was that I got into governance almost entirely by accident. I went to the business school in 1989 as Dean to rebuild the school. We had a distinguished visitor at that time, Bob Tricker, who had come to us from Oxford. Bob is probably one of the fathers of the discipline of corporate governance, which is a pretty new field. The whole word corporate governance wasn't talked about much 10 or 15 years ago. Bob had done some of the early work in defining the area and saying what were some of the puzzles that came to the boardroom and were worthy of study. He'd been approached by Prentice Hall to write a chapter for their Australian book on corporate governance. He suggested it would be a good idea if I got one of the professors to co-author it with him so that

we could put an AGSM stamp on the book. I thought that made a lot of sense and I learnt one of the great things about being a Dean in a university – you can delegate to yourself as often as you like but you can't delegate to anybody else.

So I ended up being Bob's co-author because nobody else wanted to take it on. We wrote a chapter called "The Effective Board". In those discussions with him, we clarified the tension in governance between conformance – ticking the boxes, doing what is seen as proper – and performance which is getting the entity for which the board is ultimately responsible to perform as well as it can. We saw that the tension was real and probably the overwhelming issue in terms of governance. Hence this became the theme of our article.

That experience led to a number of board invitations: thus the alternative title *An Accidental Director*. I became quite involved in governance, not just having started to write on it, but also then starting to sit around a number of board tables. My first board was Macquarie Bank, then Fosters. It was about that time, 1991, that Andrew Rogers came into play with the AWA decision. His decision was a watershed in terms of raising issues (some of which were changed on appeal) about the duties of directors? What is the role of the board? And in particular, what are some of the duties that a non executive director might have that are different from an executive director?

The Sydney Institute at that point took an initiative which was, I think, a first for it. They decided that the area was worth more than a few people coming to a lunch or a dinner and talking. It was worth a proper study group and the Institute put together a working party and asked me to chair it. A number of people were on it, and they're mentioned in the book. Their help was invaluable in flushing out what we thought was this conformance/performance dilemma and that led us to our first edition.

If you had to say what was the theme of our first edition that we've continued in the second edition, I could borrow from a quote attributed to President Clinton. Remember in the election campaign the saying was, "It's the economy stupid". Well, the main message of *Strictly Boardroom* was, "It's performance, stupid. It's performance". We reached the view that it was performance that counted in governance, not just because of belief but because we actually did some analysis and pulled out some facts. Facts aren't something that's always appreciated in the realm of corporate governance because beliefs are so strong that people who hold them don't like to be disturbed by facts.

We took the top 100 companies, between 1987 and 1992, and of that 100, 77 were in comparable states at the beginning of the period and at the end of the period. We asked then what had gone on with these companies in terms of shareholder wealth creation? Of the 77, 34 destroyed wealth. Coming out of the so called excesses of the 1980s,

what you'd then expect to find is that of the 34 that destroyed wealth (i.e. shareholders had less money at the end and the beginning) you'd expect to find all sorts of ASC inquiries, allegations of fraud and exposés in the *Financial Review*. Well you didn't. You found that of the 34 that destroyed value only seven had even allegations made. Of course now with the benefit of hindsight, only a fraction of that seven were exposed to any kind of serious prosecution. So if you said you're interested in wealth creation, if you said that's what makes this a stronger country, a more prosperous country, a country with more jobs and opportunities, then you wouldn't focus on the three or four out of 35 that destroyed wealth. You'd focus on the 30 or the 32 that were destroying wealth and had done so not because of any impropriety but for some other reason. That's what led us to say the governance process in those firms is at least a contributing factor to performance and to poor performance. And so that was the genesis of the first edition.

I'm encouraged by what's happened since. The performance view of governance has been vindicated and the ASX's approach is entirely consistent. I've also been encouraged by the international discussions on the subject and the degree to which the writings that I've done on my own and with Lex Donaldson have been picked up internationally and reprinted. Today if you asked what's the corporate governance issue, well it's performance. In the last three years when there's been very few scandals such as were alleged to be rife in the late 1980s, something like 22 of the top 60 companies changed leaders, which is why the second edition nearly didn't get done.

If you look at the US, and I talk about this in the second edition, your chance as a CEO of being dismissed for poor performance are 10 times greater now than they were 20 years ago. The whole emphasis of governance on performance has increased, which was the point that we were advocating. In fact what we were doing was trying to attack some common myths that were not helpful to good governance. There was a myth that non executives were key. The research exposing this myth is well documented in the book. It's been written up more fully since the first edition and I've included it in the second edition. There's also a myth that firms with non executive chairs and an overwhelming preponderance of non executive directors actually perform better. Sample data says that isn't true. You only have to look around you. What's critical to companies is to have some decisive leadership of quality and whether that's called chairman or managing director is less important than the quality of the leadership.

If the non executives are so important, why are Gerry Harvey or Frank Lowy or Rupert Murdoch doing so well?

Look at a company like Coles Myer that again is doing well. Is it the board structure that is responsible? Or is it the board making the decision to hire Denis Eck and give him the freedom to move and the

support that he needs that has really made the difference in terms of performance. Our view is that it's clearly not the structure of the board, but their willingness to hire appropriately and to empower. That empowerment can take place either at the chairman level or at the MD level. It can take place in a wide mix of board arrangements. So we attacked the myth that board structure is key. It isn't. It's much more to do with the calibre of people, the processes, the transparency, the disclosure, the openness, the ability of people to make informed decisions.

Another myth was boards set strategy. You have these wonderful pictures of boards going off to their weekend retreats, sitting around and on the basis of coming to a meeting a month (I was as guilty of this as anyone else) deciding the details of a company's strategy. The board set the strategy and the management implemented the strategy. The management would go off and implement the strategy which reflected all the wisdom of 12 to 25 days a year of some part-timers. Of course that's completely unrealistic. But it was again a myth that we thought needed to be attacked and exposed. The board's role is much more to concentrate on performance review, on selecting and rewarding management and on setting up the right kind of incentive structure. The idea that the board substantively determines strategy as opposed to reviews and commits to strategy on the basis of being convinced was, we thought, a myth.

The third myth is the myth of process. If we set up enough report cards, boxes to tick, forms to fill in, letters to get, letters of compliance to write and be written, then all will be well in the world. The idea that the compliance manual will actually change culture and behaviour is again a myth that we attacked. There are quite interesting questions about how you're going to bring good governance to say a body like the IOC, and the degree to which you can do it through process or the degree to which you have to do it through much more fundamental change.

So we said, "it's about performance stupid" and performance isn't explained by these so called best practice precepts which we say were largely myths. Since our first publication these ideas have become more mainstream. We're delighted with the way in which Australia is proceeding, although it hasn't proceeded entirely in the direction I'd applaud. In the UK there was a Hemple report that followed Cadbury. Hemple was the fellow who said that governance is more than box ticking. Hopefully the structuralist approach in the UK is going to be watered down. In the US too, the links between performance and structure are being disproved.

So I did agree to finish the book. And I'm delighted with the result. It isn't substantially different in terms of message. What we have done is update most of the materials. The performance material on Australia is interesting. When we did the work in 1992, Australia

looked pretty sad. If you looked at say OECD rankings of productivity, we were in the bottom third. If you look at us now, we've moved to the top third in terms of real GDP per capita. The reforms we've undertaken have placed us in good stead. The "it's performance, stupid" message is getting through. But there's nevertheless still great opportunity for improvement. While our overall productivity looks good, as you'll see in the book when you dive down a couple of levels and look – what are our firms like in terms of quality? What are our firms like in terms of innovation and entrepreneurship? We're not quite in the top third yet. We've sort of moved out of the bottom third into the middle third. Getting to the top third would be another step forward.

However, we have moved into the top third in terms of conformance. And as I say, while there's a place for conformance, I'm not sure as a country we wouldn't be better off if we were in the top third in terms of innovation and entrepreneurship, quality and productivity, and in the middle with respect to box ticking. We haven't quite got the balance right but both parts of the equation, conformance and performance, have moved in the right direction.

We added quite a bit of additional research. We added the research that Lex and I did in *Management Redeemed* where we looked at the fallacy of illegality – that non executive boards preside over companies where there are fewer breaches of the law. In fact it's the opposite. We also examine the fallacy of diversification, that it is executives who diversify and non executives who keep them in check. In fact most diversifications come from companies that have predominantly outside boards who are coming up with great ideas that we now know maybe aren't so easy to execute while sticking to the knitting has some merit.

In 1998 Phil Stern and I did some work on option hurdles where we talked about the dysfunctional role of these hurdles in terms of not bringing the shareholder and the manager closer together but actually changing the risk return balance in ways that pulled them apart, particularly when you have an option hurdle scheme and the company is performing below or close to the hurdle point.

The incentive for the executive in his care is to short term the company, which is exactly the opposite of what option schemes and equity schemes are designed to do. So that research has been added to the book. If a third edition were to be done by someone else, I would say the whole area of remuneration and incentives is one where more work is needed.

There's another area which I put more in the category of irritation than mainstream, that also could be covered in a third edition. That's the whole drama, the show, the parade, of the shareholder meeting. I've had an interesting opportunity to observe that since being at Fairfax. We've had a number of shareholder meetings to do fairly routine things – an executive compensation scheme, a buy back of shares. They were

overwhelmingly approved before the meeting but all the people who approved them, the 90 plus, plus, plus per cent don't come, and so you have a few shareholders who feel that drama at the shareholders meeting is actually in the interests of an informed market. My view is that it's great theatre and may be good because it sells newspapers. But it's costly because it actually doesn't inform the market. It means the serious questions are drowned out. There's an impression that's created as much in the minds of the staff and the public that maybe all isn't well. That's very damaging. It's the old thing, mud sticks. Yet we've created this governance vehicle which is designed around mud sticking or mud throwing being given some kind of status as opposed to legitimate questioning.

The other interesting perspective that I've had since writing that, and being a CEO with accountability for results, is that there are two governance processes. There's the show. And then there's the real one. The real one involves both the media and the analysts grilling you about results, after you go through the show processes (or before most of the time). Those people are informed and they inform the market because they write about it. The calibre and quality of questions is very good. There's no comparison between what goes on at an analyst's briefing, or at a media briefing particularly with financial journalists who understand the company and the background and have some hard questions to ask, and the show process that unfortunately goes on at many annual meetings.

I'm not today prepared to give you an answer to that question. It's a dilemma. It's worth looking at and resolving. It's not the major issue confronting governance. The major issue in governance still has to do with getting that balance right between conformance and performance and remembering that at the end of the day what matters most is performance. That's what creates not just good companies but good societies.

STRICTLY BOARDROOM

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'Strictly Boardroom is intended to reaffirm and clearly state fundamentals, and remind readers of what is known and not yet known about the theory and practice of good governance'



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INJUSTICE : A CASE

STUDY

Kirstyn Austin

Thank you so much for allowing me to be here today. I'll start by recapping the story.

Fred Many entered my life when I was 15. I was walking home from spending the day with some girlfriends. It was the school holidays. Mum had always taught me, always drummed into me, the importance of not speaking to strangers. Unfortunately, that day I didn't listen. Many pulled his car over to the side of the road, asked me if I wanted a lift, and foolishly I said yes. I actually took pride in the fact that, "Gee I might even make it to the bus stop a bit earlier, enough to get the early bus home and wouldn't that surprise Mum."

The early bus trip home actually ended up being about 14 hours late. I was sexually assaulted and raped and Many then also tried to strangle me – twice. During it all I guess I just kept focused on home, focused on me and the importance of life. Luckily I was able to out-smart Many. While he was strangling me, I didn't know until later that he in fact had a hearing problem in one ear. He was partially deaf. So he couldn't hear me breathing, it was actually a shallow breathing. During this time I actually fell into unconsciousness. Many then dragged me further into the bush. We were in a deserted area by this stage. Without realising it, unfortunately and without thinking, as he dragged me further into the bush, I came to, and straightaway started struggling. So Many knew, "Oh, I haven't succeeded." He again tried to strangle me and I again held my breath and tried to play dead.

At that stage I think in order to prove to himself that he succeeded, he picked me up and threw me against a tree in the hope that I wouldn't call out. Luckily I didn't, but again I lost consciousness. I came to in the morning and struggled to the road, to the highway. During the night, I crawled around dense, thick bushland and literally walked into trees. I ended up a scratched, bloody mess basically. I stumbled out onto the highway, flagged down a truck, a semi trailer. I was driven to Gosford Police Station at high speed and from that point

on entered the Police Department and the way they worked. I became a little too familiar with the justice system and its faults.

Through Fred Many I was subjected to not only a rape and then attempted murder but, after the committal proceedings and from within Long Bay Prison, Many put a contract out on my life and Mum's life. We were then placed in the Witness Protection Program. They are a very supportive group – and I definitely wouldn't be here if it weren't for them – but it was a prison. Mum and I were surrounded by police 24 hours a day. Our best way to deal with this situation was to become familiar with the officers. The way Mum and I are, we always try to look on the bright side of life. We don't let ourselves become too bogged down in the daily dramas. And yet I remember specifically one afternoon. We were in a safe house. When you are in a safe house and when you're in the Witness Protection Scheme, no one knows where you are. You have no phone calls with family. There is no contact, no meetings, no spur of the moment going down to a shop to get an ice cream. This one afternoon we'd all been sitting down, we'd been cracking a few jokes, and I put my hand up and said "Look sorry guys, I have to go to the chemist." Then came, "Okay what do you want?" And I simply replied, "No, I have to go to the chemist." Then one of them stood up, took off his track-suit jumper and attached a shoulder holster. He bent down and put on an ankle holster. He was arming himself to walk me to the chemist. That hit home. It was then that I realised there was someone out there with a gun pointed at me.

For some reason, Many felt that by getting me out of the way there'd be no case. He was wrong. The police found out about the contract. Finally I got to a point in my life where this man had taken so much from me that I just said, I'm not giving up, I'm not going to give in to him. He doesn't deserve it. He had power over me that day. He took my innocence. He took my strength. But he wasn't about to take my life again.

So we continued through the Witness Protection Program. It got to a point where I had to flee overseas just to feel safe. This wasn't long after Many had had his sentence reduced. The sentence that originally had started out at 20 years went down to 12 years and then to eight because he became an informant. I use the term extremely loosely. This was a man found by a court of law to be a liar. He'd admitted to perjury. Yet for some reason the system still gave him the sentence reduction and refused to take it back, refused to change it. So Many served eight years.

I know the law says it was eight years for rape and attempted murder, but I am the victim who suffered at the hands of this man and who still does. Rape isn't a crime that lasts 10 or 15 minutes. It's a crime that keeps going. Day after day. Year after year. It's probably one of the longest running crimes. No one took that into consideration.

Everyone said, "Eight years, eight years, eight years." But looking back at it, when Many attacked me he was on parole. So, in effect, he broke his parole. He still had seven years to serve from the previous conviction of armed robbery. You break parole, you go back into prison, you serve the seven years. Then, from my knowledge, you'd expect he would, after those seven years, then serve the eight years. But no. Technically, if you want to look at it the way I do, he served seven years for armed robbery and eighteen months for rape and attempted murder.

Luckily I think that's changed. Truth in sentencing came in. The way the system and the police use informants has also changed. Now they have to have independent evidence that backs up whatever information is given by the informant. And the police also keep a register of all informants so that they can keep checking just to see where their motives may lie. In that sense maybe a positive step has come out of all this.

The main reason for writing the book is the fact that I'm no one special. I wasn't someone in the public eye. It wasn't like "We'll kidnap her, we'll get a huge ransom." I was a no one. Across Australia I don't think I'm the only one that this has happened to or will happen to in the future. That was the importance of getting together with Janet and writing this book. To get the truth out there, to have a better understanding of what rape is about. For starters, too many people associate rape with sex. Ten minutes of painful sex – rubbish. Sex is nothing, sex is not a part of it. The actual rape to me is the kicks for the guy that's doing it. What rape is about is humiliation; it's about taking away that person's choice and it's about taking away that person's strength. To me that's the biggest theft that anyone can suffer.

We have to throw off the shroud of secrecy that women and anyone for that matter – boys, kids, girls, whatever – all seem to walk around with. This guilt that we did something, that it was something *we* did. *We* instigated it. For years it was the fact that *I* got into the car. But it shouldn't be a matter of a quiet little family secret. Rape isn't something to be ashamed of. I'm not ashamed of it. I don't think anyone could reasonably look at me and think "dirty person" because the fact is you don't have control over that sort of situation. You don't have control over that act.

That was so important in this book. That's why the book is written quite graphically. I dealt with it as if I were talking with someone about it over coffee. Just straight from the shoulder. And it has to be that way. We have to get rid of this illusion. It's crude, it's blunt, it's hurtful, but it's got to be in the face of it. Changes can be made. We need a better support network for women. We need greater understanding. And we need to be able to walk tall again.

INJUSTICE : A

CASE STUDY

Janet Fife-Yeomans

I first met Kirstyn Austin on 12 December 1990, the day after the NSW Court of Criminal Appeal cut Fred Many's 20 year sentence for her rape, attack, abduction and attempt to murder her to just eight and a half years. I was then the chief court reporter on *The Sydney Morning Herald* and I had become increasingly interested in Fred Many. I had been following his career through the courts, not his career as a criminal but his career as a witness. I hadn't been covering courts in Sydney when Kirstyn was attacked, but by this time I knew a lot about what he had done to her through looking into the case.

While I had been waiting for the court's judgment, Kirstyn and her mum, Oksanna, didn't even know it was coming. That morning, they had woken up to the story in the paper. When they read it, they got in touch with me through another reporter. Oksanna used to work on the switchboard at the Sydney radio station 2GB and luckily for them, they knew some reporters – luckily because although the media is always being criticised, it is very powerful and more often than not that power can do some good. I went to see them and they were living in a tiny terrace in Sydney's inner west with bars on everything, doors and windows. They were like frightened rabbits caught in the headlights of a car, quite literally scared out of their wits that this man was going to be out of jail in five years.

Apart from the rape, he had tried to kill Kirstyn twice and then put a contract on her life to stop her giving evidence so there would be no case against him. They were still at that time in witness protection. But what also struck me about them was how they were hungry for information. They had no idea what was going on, no-one had told them, no-one had explained to them how the appeal system worked or what was happening. That they had to rely on reading about it in the paper was shocking. I'd say that from that point, finding out as much as I could about Fred Many became a bit of a crusade for me.

My interest had begun through looking into the trend at that time for the police to use prison informers in court. This story also closely

involves Tom Domican, who probably needs no introduction. At that time, his many trials were winding their way through the courts with much of the cases against him based on the word of prison informers. Like any reporter worth her salt, I had been reporting on them and I had noticed one familiar face turn up in the witness box time and time again – Fred Many. Domican himself had been in touch with me through an armed robber he had met in jail. I'd written a few stories on the armed robber when I worked in Perth for *The West Australian* and he had allegedly bribed a prison officer so he could escape from a prison farm for nights of sex and passion with a stripper called Ziggy. He'd been released on parole and headed to Sydney where he'd been arrested on conspiracy to commit an armed robbery while driving his wife's yellow Jag.

Crims pass around the names of journalists in the same way they pass around the names of lawyers so although I had never met this armed robber, he "recommended" me to Domican who wrote to me from jail. I met his wife, who is a very good and a very strong woman, and then I met Domican. He of course said that Many had set him up – they all say that! I'm far from naïve, having reported on so many court cases that I usually start by disbelieving what anyone tells me unless I can be convinced otherwise, which rarely happens. I listened to what Domican had to say and then went away to do my own homework, far from convinced he was innocent as he said he was.

What I discovered convinced me that Fred Many lied, and that the NSW Police and the National Crime Authority, were willing to believe him because they so badly wanted convictions against Domican. Along the way, they gave little or no thought to Kirstyn who was sacrificed so Domican could be locked up.

It is a long, incredible story that involves some fascinating characters and there is not time tonight to tell you everything but I do think it's important to tell you the outline of what happened. Domican was first arrested in October 1986 and charged with the attempted murder of Chris Flannery, the hitman who is probably now dead but of whom there have been as many sightings as Elvis. He was also charged with shooting at Flannery's wife, Kath and their 10-year-old daughter. It was at a time when Sydney's drug wars over the lucrative drug trade were at their height. Domican was remanded in custody – and Fred Many had seen his saviour.

Many had already told police an incredible fairytale about how he had been set up for the attack on Kirstyn by another notorious criminal. They dismissed it pretty damn quick. But they were prepared to believe him when he told police in mid November 1986 that Domican had confessed to him to shooting at Flannery. As a sex offender, Many was in protection and Domican was in the main jail population. This chummy little chat was supposed to have taken place through a parti-

tion between the two parts of Sydney's Long Bay Jail. Another twist to this story was that in jail, Many had married Lyndie Cashman, whose sister was Julie Cashman better known to the media as the Angel of Death after her boyfriend and then her husband both died either in robberies or trying to spring her from jail. But Lyndie is a really decent girl who soon dumped Fred when she learned what he had done to Kirstyn. Lyndie told me that before Many had told the police his story, about what Domican had allegedly told him, he had asked her to go to the library and look up everything she could about Domican and Flannery – it does appear he was looking for as much information as he could to prepare his story for police.

But that was not the only time Domican told his secrets to this rapist. The charges against Domican started flowing thick and fast. He was charged with conspiring to murder another inmate, Franciscus Vandenburg – and soliciting Many to do it. Vandenburg, who has since committed suicide, was in jail for the murder of Megan Kalajzich, the wife of Andrew Kalajzich, the now-ex Manly millionaire hotelier. There was no evidence that Domican even knew either Kalajzich or Vandenburg. Then Tom Domican was charged with conspiring to murder a former cop who was in jail and who, it was alleged, had got wind of the Vandenburg plot. Again, the witness to Domican's jail confessions was Many.

Then Many claimed Domican had told him he had done the deed of the decade, had murdered Flannery and dumped his body at sea. The NSW Police didn't believe it, so Many courted the NCA who charged Domican with the murder, despite being spoken to by their NSW colleagues. As a thankyou, the NCA bought Many an electronic keyboard – he was the only prisoner to be able to bang out a tune on a keyboard in his prison cell. Many also got extra telephone calls and conjugal visits with Lyndie, which the jail denies but which Lyndie later gave sworn, and embarrassing, evidence about to the NSW Independent Commission Against Corruption. She had no reason to lie.

When you put this all together, if it was not only patently rubbish, it was certainly a chain of events that should have had made someone wonder. But no-one pulled it together. Unlike the methods employed today in the Office of the NSW Department of Public Prosecutions, there was not one prosecutor assigned to all of a defendant's trials so there was no-one to oversee what was happening to the cases involving Domican.

Through all of this, Kirstyn and her mum had no idea what was going on. Indeed it was the NCA who had intercepted the telephone call from jail in which Many put out the contract on their lives – complete with address and telephone number – and it was the NCA who had immediately put the wheels in motion to put the two women into

witness protection. The NCA also told Kirstyn and her mother that they believed it was Domican who had accepted the contract on their lives. While there was evidence of the telephone call, there was no evidence that Domican was ever mentioned. The charitable view is that they believed Many so thoroughly that they surmised Many and Domican were such good chums that Domican would do his bidding. The other possible view is that they were obsessed with Domican. Remember that the NCA which believed these two women were in need of 24-hour armed protection from Fred Many was at the same time rewarding him for helping them. And if Domican had in fact accepted the contract, he was going to find it just a trifle difficult as he was safely locked up in jail. It was a ridiculous situation.

Thanks to Many, Domican was convicted of attempting to murder Flannery and his family. He was also convicted of the conspiracy to murder Vandenburg. But in early 1990, the NSW Court of Criminal Appeal overturned the conviction for the Vandenburg conspiracy after hearing from a solicitor that Many had told her he had lied. It was powerful stuff and the court took the unusual step of allowing fresh evidence and called the solicitor into the witness box.

Then in December that year, that same court that just seven months earlier had branded Many a liar, cut his sentence from the 20 years he had received for the attack on Kirstyn to eight and a half years as a reward for being an informer. Speaking up for him in court were officers from no less than the NCA, the NSW Police and the NSW Department of Corrective Services Internal Investigations Unit at Long Bay jail. The court even knew that Many had refused, at the crucial moment, to give evidence against Domican in court in his claim that Domican had murdered Christopher Flannery. The murder charge was dismissed but Many got to keep that electronic keyboard.

The court set Many's release date at 4 March 1995. As I went about finding out as much as I could about him, every year when I got a new work diary, that was the first date I put in. There was no way he was going to walk out of jail quietly. By that time, I had come to know Kirstyn well, mainly via long telephone calls to the UK where she had fled for her own safety and with the help of the witness protection officers, with a new identity and knowing not a soul. We often met later when she bravely moved back to Australia, although Many was out of jail free. She was still in witness protection but could not bear to be away from her mum any longer.

The book was the idea of my husband, another journalist, although it took a while for Kirstyn and I to think it over and decide to do it. For a start, her life remained in danger while Many was out of jail - although facing fresh armed robbery charges which he had been told by his lawyers would be almost impossible to beat. After thinking long and hard, we concluded it was a story that should be told.

The book, *Injustice*, I think, was good for Kirstyn because it made her feel it was not all in vain. Apart from, we think, being a good read, I have had a lot of feedback from rape crisis centres pleased that someone had the courage to write about the subject in such detail. I've also had a couple of letters and a telephone call from people living in witness protection, with new identities, unable to ever talk to the bulk of their families openly again. They said they felt like the forgotten and lonely people and were very pleased to see one of them had the courage to stand up and be counted.

It was towards the end of working on the book that I got a telephone call on Sunday morning at work from Domican who told me he had heard that Fred Many had died that Friday night – and he swore he had nothing to do with it. He was right. Many had in fact died of a heart attack at the Housing Commission flat of his latest wife. It was just a week before he was due back in court on those armed robbery charges. Kirstyn was finally able to step back into her own life. She could even put her real name, the name she had lost when she went into witness protection, on her book.

I do not for one moment want you to think that I live my life by fortune cookies, but there's one message that I got a while ago which I think is worth thinking about. It said: "The will of the people is the best law." No-one pretends that the law equals justice because it doesn't and if any case highlights that, it is this one. I hope it won't happen again. It is good that people talk about it, which is another reason why Kirstyn and I wrote the book and why I thank you for coming along here tonight.



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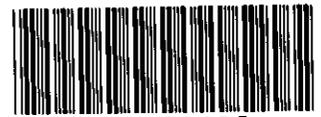


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- 12. Tokunbo Olabinri, Kerry-Ann Aiken

Photographer: David Karonidis



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LEGAL OIL AND

POLITICAL VINEGAR

Murray Gleeson

In a speech made in Melbourne in October 1998¹, a distinguished Canadian judge, Madam Justice Rosalie Silberman Abella, examined the role of the judiciary in upholding human rights. The occasion of the address was the fiftieth anniversary of the Universal Declaration of Human Rights and of the Genocide Convention. Justice Abella referred to the tension between the judiciary and parliamentarians which arises from the nature of their respective functions. She mentioned an observation made in the nineteenth century by a British Prime Minister², who was irritated by certain decisions of the House of Lords narrowing the intended effect of some social welfare and labour legislation. The Prime Minister said that the salad of justice requires both legal oil and political vinegar, and remarked that disastrous effects would follow if due proportion was not observed³.

There are different opinions as to what constitutes due proportion in that mixture, and the ideas of people vary from place to place, and from time to time. Judges in the common law tradition have for 300 years claimed and exercised powers and asserted independence in a manner which has brought them into conflict with politicians and governments.

The starting point was the confrontation which occurred, in England in the seventeenth century, between King James I and Chief Justice Coke⁴. Coke contradicted the King's assertion that the King had the ultimate power to decide the common law. That power, Coke said, belonged to professional judges. The King, enraged, accused Coke of treason. He said that Coke was asserting that the King, (in modern terms the government, or, in some societies the ruling party), was beneath the law. Coke said that was exactly what he was asserting, and quoted Bracton as authority for the principle that the King was beneath no man, but was beneath God and the law. This view, soon afterwards established in England, existed alongside, and was supported by, an alliance between the courts and parliament against the executive government. The principle that it is for the judiciary, with guaranteed secu-

rity of tenure, and not the government, to declare what the law is, is of basic constitutional significance. But it is to be remembered that when that principle was first established in English law, governments did not claim to represent the people. Coke was confronting a King who claimed to rule by divine right, not by the will of the people. It was in the interests of Parliament, in its struggle for power against the Crown, to align itself with the courts, and to support their claim, as against the King, to have the power to decide what the law, including the law of the constitution, was.

If we move ahead a century, to consider the work of Lord Mansfield, one of Coke's most notable successors, the context is changing, but the basic principle remains the same. A large part of Lord Mansfield's work consisted of developing English commercial law as a body of judge-made rules. To a substantial extent those rules were later codified or amended by Acts of Parliament, but they were originally declared to be part of the common law by judges. Some of the rules that he developed, which formed an important basis of England's commerce, were imported from the mercantile law of Europe. This judicial activity of making, refining and developing the law is familiar to common lawyers, and continues to the present time. Without it, much of our law would be either non-existent or anachronistic. Nowadays, however, that judicial function is carried out against a different social and political background. Modern parliaments intervene, by way of legislation, in a wide range of subjects which in previous times were left to lawyers and judges. Moreover, parliaments are now democratically elected, and claim to represent the will of the people. Judges, who have been making and developing the common law for centuries, are categorised as unelected and relatively unaccountable, and the judicial role is seen as undemocratic. What judges are doing has not changed. The change that has taken place is in the context in which they are doing it. The legitimacy of judicial law-making is questioned in an age when the public equate legitimacy with democratic election and direct accountability.

Consider a more striking instance of the power exercised by Lord Mansfield and his judicial colleagues. This example is to be found, not in the development of England's mercantile law, most of which was politically uncontroversial, but in a celebrated decision which shows clearly the role which English judges assumed in the governance of the nation. It was necessary for Lord Mansfield, and his court, in 1772, to decide an issue concerning the rights of owners of foreign slaves. An African slave named James Somerset was on board a ship in the Thames, bound for Jamaica. Members of the anti-slavery movement made an application for his release. The question for the court was whether English law recognised a foreigner's ownership of a slave. Lord Mansfield, delivering the judgment of the Court, said⁵:

The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only (by) positive law, which preserves its force long after the reason, occasion, and time itself from when it was created, is erased from memory; it is so odious that nothing can be suffered to support it but positive law. Whatever inconveniences, therefore, may follow from (the) decision, I cannot say this state is allowed or approved by the law of England; and therefore the black must be discharged."

Although there is some scholarly debate about the matter, the predominant view is that by positive law Lord Mansfield meant legislation.

This is an example, from 1772, of what would now be described as judicial activism. The state of slavery is odious, declares the Chief Justice of England, one hundred years before the American Civil War. Therefore, regardless of the inconvenience to trade which may be caused, it will not be recognised by an English court unless legislation compels that. If parliament chooses to legislate, it may do so. It has not done so. The black must be set free⁶.

The judicial power there being exercised may come as a surprise to some people. How does such a power co-exist with the legislative power of modern, democratically elected parliaments, intensively regulating the affairs of citizens?

In recent years some people, prompted by a few well-publicised examples of the law-making power of judges, and especially of the High Court of Australia, have begun to take an interest in a subject which previously concerned only a relatively small group of lawyers. Even amongst lawyers, it was of little interest to most practitioners, and, in truth, it had, and has, little bearing upon the day to day work of most judges. I refer to the methodology by which, in a common law system, judges refine, develop and sometimes create, the law⁷. It is interesting to read differing opinions as to how they do it. Of equal importance is why they do it, and how their power to do it relates to the powers of parliament and of the executive government.

It has been said that "(t)he hallmark of a common law system is the importance accorded to the decisions of judges, and in particular appellate judges, as sources of law."⁸ That is the essential difference between the legal systems of countries in the common law tradition, such as Australia, England, Canada, the United States of America and New Zealand, and those of countries in the civilian or Napoleonic tradition, where the laws are substantially based on statutory codes, such as France, Germany and Italy. In common law systems, judicial decisions, based on precedent, developing the law incrementally from case to case, are just as important a source of the law affecting the rights and obligations of citizens as are statutes enacted by parliament. The interaction between judge-made law and statute is itself a complex subject

of legal scholarship, but it may be put to one side for the purposes of this paper⁹.

The primary feature of the technique by which judges develop the common law was described in an English appeal as follows¹⁰:

The appeal raises directly a question as to the balance in our law between the functions of judge and legislature. The common law, which in a constitutional context includes judicially developed equity, covers everything which is not covered by statute. It knows no gaps; there can be no "casus omissus". The function of the court is to decide the case before it, even though the decision may require the extension or adaptation of a principle or in some cases the creation of new law to meet the justice of the case. But, whatever the court seeks to do, it starts from a base-line of existing principle and seeks a solution consistent with or analogous to a principle or principles already recognised.

The distinguishing feature of the common law is this judicial development and formulation of principle. Policy considerations will have to be weighed; but the objective of the judges is the formulation of principle.

The real risk to the common law is not its movement to cover new situations and new knowledge but lest it should stand still, halted by a conservative judicial approach. If that should happen... there would be a danger of the law becoming irrelevant to modern social problems."

Two observations may be made. First, descriptions of judicial attitudes are usually subjective, and an English law lord's ideas as to what amounts to a progressive or conservative judicial approach are likely to be different from those of many other people. However, the explanation of the judicial technique as starting from a base-line of existing principle, and working incrementally from there, explains why, to the eyes of many observers, the judicial method is inherently conservative. Secondly, many people would say, with justification, that there are plenty of modern social problems to which the law has become irrelevant, or with which it copes inadequately. Even so, a proper awareness of the deficiencies of the system should not blind us to its achievements. Some of the achievements can best be seen by comparing the relative stability and security of our circumstances with those of others.

The place of the judiciary in a common law system differs in significant respects from that of the judiciary in a civil law system. Civil law systems tend to have many more judges per head of population. Germany, for example, has about five times the number of judges per head of population that Australia has¹¹. On the other hand, the judiciary in civil law countries is, by our standards, institutionally self-effacing. In an article in the *Yale Law Journal* entitled *Judicial (Self) Portraits: Judicial Discourse in the French Legal System*¹², a French legal scholar wrote¹³:

The French civil law system is premised on a supposedly all-encompassing and all-generating legal code. French judicial opinions merely apply the Code, which patterns their syllogistic form

and mechanical structure. Implicit in this official portrait is a definition of the role of a civil judge. [The judge] mechanically (and unproblematically) fits fact situations into the matrix of the Code. Thus "the Code is supposed to have already judged" - the judge is but its passive and invisible agent.

The author explains that this is reflected in the form and style of French judgments. They are, by our standards, very brief; they make no provision for dissent; and the outcome is expressed so as to appear inevitable. The reality of French judicial decision-making is different, and the contrast between the way in which the process in fact works and the way in which it appears is the main theme of the article; the contrast is between the official and the unofficial portraits of a judge. A desire to remove the law-making power of judges, exercised in "parlements", was one of the objectives of the French Revolution, so this is a subject which runs deep in French constitutional arrangements.

In civil law systems the theory is that judicial decisions do not make law; they merely provide particular examples of the operation of the legislative Code. In common law systems, judicial decisions, especially those of appellate courts, create precedents upon which the law grows and develops.

The role which a common law system assigns to judges has certain inescapable consequences. First, judges, especially those who have most occasion to discharge the law-making responsibility, are inevitably subject to scrutiny and criticism of their efforts. Such criticism is sometimes fair and sometimes not. One thing, however, ought to be remembered. Judges do not choose the cases that come before them; they are bound to decide the issues which litigants present for decision, and it is not open to them to say that the law provides no solution to the case. There is no judicial too-hard basket. Modern citizens and lawyers make aggressive use of litigation to establish all manner of claims and the courts have to deal with the cases they bring. It is not open to judges, on the basis of a sampling of public opinion, to decide that it is expedient to defer an issue, or to ignore it altogether. Secondly, the demands for accountability which accompany any exercise of power or authority in the present age are in some respects difficult to reconcile with the imperative of judicial independence. Thirdly, as various interest groups in the community become more aware of the power which the system gives to judges, they naturally take a greater interest in issues such as judicial appointment and judicial training and education. There is nothing wrong with this; it is to be encouraged so long as it does not reflect itself in a desire to compromise independence. Fourthly, judges themselves have to expect that not all of their critics will be models of courtesy. Fifthly, much of the scrutiny and criticism will come from parliamentarians and governments, and dissatisfaction with judicial decisions will be represented as a conflict between the judiciary and the other branches of government. Judges need to be willing and able to

acquit themselves respectably in such conflicts, whether they be real or artificial.

Whilst many observers of judicial development of the law concentrate only on outcomes, and either applaud or deplore results, the real test of the legitimacy of this activity lies in the process. So long as judges continue to accept the constraints inherent in the judicial method, working from a base-line of existing principle, and solving new problems, or re-evaluating old solutions, consistently with principle, then they can provide an effective answer to a criticism that they are trespassing into a field which belongs to parliaments.

It is not only, or even mainly, the role of judges in developing the common law which is likely to bring them into collision with governments and parliaments. Three other areas of judicial activity require particular mention: constitutional interpretation; the developing importance of human rights law; and judicial review of administrative action.

A federal system of government necessarily involves a demarcation of powers between the entities which constitute the federation; the central government and the State or provincial governments. That demarcation is made by a written constitution which, in the case of Australia, confers legislative power over specified subjects on the federal parliament and allocates the remainder to the State. The history of federation is one of recurring litigation between State and federal governments over this division of legislative authority, and between citizens and governments over the limitations placed upon federal and State legislative power. Furthermore, the Australian Constitution contains certain rights or guarantees, express or implied, which, although few in number compared with the position in the United States, have given rise to litigation and the need for judicial decision.

It is self-evident that the exercise of jurisdiction such as this will from time to time frustrate ambition, curtail power, invalidate legislation, and fetter administrative action. As the guardian of the Constitution, the High Court from time to time disappoints the ambitions of legislators and governments. This is part of our system of checks and balances. People who exercise political power, and claim to represent the will of the people, do not like being checked or balanced.

There is another development which has emphasised a different aspect of the judicial role; one also calculated to bring it into conflict with parliaments and governments. The subject matter which has given rise to this form of tension in truth represents a fundamental problem of democracy. Paradoxically, the problem has become more significant as governments have become more democratic and, therefore, more responsive to the will of the majority in the community. In a paper delivered in 1965¹⁴, Viscount Radcliffe said:

We shall never begin to approach the ideal of a just and defensible society unless we shake ourselves free of the notion that there is

any moral sanction whatsoever behind the votes or wishes of a majority. To respect majority opinion is the duty of a civilised man in all matters in which such deference may properly be required. A democracy cannot conduct its affairs on any other working principle. But the art of political theory is hardly begun with the rules for ascertaining and enforcing the wishes of a majority: the real art lies in analysing and expounding the circumstances and occasions upon which, whatever the wishes of a majority, they ought not to be given effect to at the expense of a minority, large or small, and of that art, so far as I can see, our public life is almost totally deficient. We do not attend to it in our Constitution, we do not discuss it on any intellectual level that commands respect, and yet there is no question more crucially important for the health of democratic society.

The observation that the subject is not discussed on any intellectual level that commands respect might have been fair in 1965 but since that time there has been an upsurge of human rights discourse. While it may not all command respect, some of it does. The modern preoccupation with the subject of human rights, which in large part involves questions as to the circumstances in which the rights of a minority, large or small, may not be swept aside by the wishes of a majority, has given a new dimension to the judicial role, and one which is guaranteed to give rise to trouble between the judiciary, and parliaments and governments which represent, and must be responsive to, the wishes of the majority. In some respects this role has been placed upon judges by legislation enacted by parliaments, some of it in response to international commitments undertaken by the executive government.

Even before the current concern with human rights, it was always an important aspect of the role of the courts to defend the rights of the individual citizen against the executive government, and against the wishes of a majority in the community. In the administration of criminal justice, for example, it has always been the duty of the courts to insist upon due process of law, and upon strict observance of the rules of procedure and evidence, even though the person being prosecuted might have been charged with conduct of a most extreme and anti social nature. Similarly, in sentencing law and practice, it is the responsibility of judges to insist upon strict observance of the rules of statute and common law. This has often drawn criticism from people, including parliamentarians, who are well attuned to popular sentiment. Parliamentarians, naturally responsive to the wishes and demands of the majority in the community, are sometimes not well placed to uphold individual or minority rights.

Another important field of modern judicial activity is that which involves judicial review of administrative decisions, nowadays usually pursuant to statutes such as the *Administrative Decisions (Judicial Review) Act 1977* (Cth). Such legislation has subjected the conduct of

government officials to a form of judicial scrutiny which is often unwelcome. It is not my purpose to discuss the merits of the policy underlying the legislation. Indeed, there are indications that the policy is far from settled, at least in relation to some areas of administration.

An essential difference between public servants and judges is that public servants are, within the limits of the law, obliged to implement the policy of the executive government. Judges must give effect to the will of parliament expressed in legislation (which is not necessarily the same thing as the policy of the executive government), but, in resolving a dispute between a citizen and the government, they must act in an even-handed manner. They do not set out to give effect to government policy. They administer justice, according to law. When a matter is committed for decision to the judicial branch of government then, to the extent defined by the scope of the litigation, it is out of government control. It is not in the nature of governments to relish matters being taken out of their control.

This is an even more sensitive issue in a context in which so much of modern administration emphasizes the importance of outcome as distinct from process. Judicial insistence on due process, and decision-making according to law, may be seen as sacrificing efficiency to technicality, and policy to legalism. Impatience with process and concentration upon outcome is regarded, in some quarters, as the mark of good management. But a moment's reflection shows that our constitutional, political and legal systems are deeply concerned with process. A federation is in some respects a model of inefficiency. Parliamentary democracy has many virtues, but, if getting the trains to run on time were our first priority, we would probably be better off with a different system of government.

There have been some well publicised encounters between the judiciary and the political branches of government in Australia in recent years. In truth, this is a world-wide phenomenon and such conflict as has occurred in Australia has been fairly restrained by international standards. People in the USA are accustomed to much more robust interchange between courts and government than has so far been common in this country. In Canada there have, over the last 20 years, been some serious confrontations, especially between provincial judges and governments¹⁵. The Supreme Court of Canada has found it necessary to deliver a number of major judgments defining the minimum requirements of judicial independence¹⁶. The Chief Justice of Canada said in a 1997 judgment that "(t)he independence of provincial court judges is now a live legal issue in... four of the ten provinces in the federation¹⁷". Writing in 1996 two commentators said that the decade of the 1990s was a time of unparalleled conflict between Canadian Provincial court systems and the governments which established them, and that there was scarcely a single Canadian jurisdiction in which serious tension did

not exist between judges and cabinet.¹⁸ These problems are not confined to common law jurisdictions. A recent publication by two authors collecting studies on what they describe as the judicialisation of public policy¹⁹ finds that since World War II a number of the larger civil law democracies have seen a major expansion of judicial power. They assert that in Germany the Constitutional Court "now regularly and authoritatively determines policies that might have been the prerogative of the majoritarian institutions"²⁰. In Italy, they say, "we encounter what may well be the most striking and significant example of the expansion of judicial power in a Romano-Germanic democracy"²¹.

It is necessary to understand what is occurring in Australia both in its historical and in its international context. Our democracy is not in danger of becoming judicialised. Judges continue to perform the traditional functions of a common law judiciary. They uphold the Constitution and the rule of law. They decide demarcation issues between governments. They administer criminal justice according to law. They sometimes make unpopular decisions; and they sometimes make noisy enemies. By and large, however, the different branches of government in this country relate to one another with civility and, usually, although not invariably, with as much restraint as can reasonably be expected.

The courts and the parliaments have their own distinctive contributions to make to justice and there is no reason why each side cannot continue to maintain a decent regard for the role of the other.

Endnotes

- 1 "Human Rights and the Judicial Role", 9th Australian Institute of Judicial Administration Incorporated Oration, published by AIJA.
- 2 Lord Salisbury.
- 3 Oration, above, page 15.
- 4 See Holdsworth, *A History of English Law*, 2nd Ed., Vol V pp428-451; R G Usher, *The English Historical Review*, ed. Reginald L Pode, 1903 Longmans, Vol XVIII pp 664-675.
- 5 Lofft 19, 98 ER at 510.
- 6 For a more detailed analysis of this case, and of Lord Mansfield's views on slavery, see Oldham J, *The Mansfield Manuscript*, 1992 USA, Ch 21.
- 7 For a recent discussion of the subject by a member of the High Court of Australia, see M H McHugh *The Judicial Method*, (1999) 73 ALJ 37.
- 8 J Beatson, *Has the Common Law a Future?:* [1997] CLJ 291.
- 9 It is a subject examined in Professor Beatson's article, above.
- 10 *McLoughlin v O'Brian* [1983] 1AC 410 at 429.430, by Lord Scarman.
- 11 Source, Federal Statistical Office, Germany, figures for 1995 and 1996, showing more than 20,000 judges compared with 880 judges and magistrates in Australia.
- 12 Mde S Lassers, [1995] 104 *Yale Law Journal* 1325.
- 13 At 1327.
- 14 "The Dissolving Society", oration at the London School of Economics and Political Science, 10 December 1965, reprinted in Viscount Radcliffe, *Not in Feathered Beds: Some Collected Papers*, 1968, London at 229.

- 15 See the article by Gerald T G Seniuk, *Judicial Independence and the Supreme Court of Canada* (1998) 77 Canadian Bar Review 381.
- 16 Eg. The Judges Reference [1997] SCJ No. 75.
- 17 Above, note 3 at para 6.
- 18 D A Schmelber and W H McConnell, *The Independence of Provincial Court Judges: A Public Trust* (Toronto: Canadian Association of Provincial Court Judges, 1996).
- 19 C N Tate and T Vallinder, *The Global Expansion of Judicial Power*, 1995 New York University Press.
- 20 Above, p 519.
- 21 Above, p 520.



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“I WAS APPALLED

WHEN I READ”:

REFLECTIONS OF A LETTERS EDITOR

Geraldine Walsh

Nine years ago when I was offered the *Herald* Letters job it was made clear the work wasn't onerous; in fact it was a rather genteel position. Unlike other sections of the paper you didn't have to chase recalcitrant journalists for copy – instead the copy came to you like manna from a GPO post box. I remembered watching the *Herald* letters team in operation when editing another section of the paper located nearby. The Letters editor would drift in. She appeared to work part-time and cast a sophisticated eye over a selection of letters an underling had culled. Her imprimatur, would be bestowed on about ten letters, after the blue pen had been wielded, and off she'd go, perhaps for a spot of shopping at David Jones. Her team would get on with it. A man whose voice seemed to have an inbuilt loudhailer phoned the “chosen ones” with the good news and woe betide the unwise individual who remonstrated with the cuts that had been made to his letter. “It's a privilege and an honour to be published in *The Sydney Morning Herald*,” he'd bellow. Suitably chastened, the letter writer would retreat.

All the while there was a woman banging away on a typewriter addressing form letters informing the rest of their lack of success but with the added sweetener that their letters were valued by the *Herald* and to keep those cards and letters coming. It might sound a little Dickensian, but Letters had come a long way in *Herald* terms. At least women were at last considered sufficiently informed about the important things in life to edit letters.

Still, what a life I thought. It'll do me. As it turned out the memory and the reality were at odds. When I arrived I found the team consisted of me and an offsider who had worked with two previous letters editors. She taught me the ropes. Each day the letters which found favour were sent downstairs to copy inputters all of whom were men and all members of the very strong Printing and Kindred Industries Union which was a law unto itself. Generally, letters had to be sent to them before noon to get them into the computer system the next day. If

you were so attracted to a letter that you wanted to get it in the actual paper the next day and were foolishly tempted to type it into the system yourself you ran the risk, if discovered, of bringing the entire PKIU workforce out on strike. The absurdity of the system was remarkable. They didn't like handwritten letters, they found them difficult to read. The Letters team was expected to transcribe them by typewriter onto sheets of paper which then sent to the inputters. There was no way I was going to do that, so we ran the risk. Consequently, handwritten letters at that time had a very good chance of getting in reasonably quickly once they'd worked their way through the post office and the vagaries of the Fairfax mailroom – another law unto itself in those days.

Indeed it was a stately procedure – nothing about it was hurried or possessed of a sense of urgency unlike the news pages. All this did make for genteel working conditions, as I'd been told.

The list of letters to be published, selected from those already in the computer system, was handed to the dedicated sub-editor by noon. Dedicated not in the sense of his attitude to the job but in that Letters was his sole job for the day. The Letters assistant opened the day's mail. I read them and selected the ones to go downstairs for inputting. Then we could go to lunch. Once the sub-editor had subbed the letters he then had to wait for the compositors to set up the page. The work shifts and breaks – morning tea, lunch, smokos etc – of the compositors had to be worked around and nothing could be done to the page in their absence – even touching the page could cause a strike. If there was a bad turn or a widow i.e. a break-line at the top of a page or column we might have to pull a letter and insert another which would be a better visual fit. Finally, the sub would get a proof page from the compositors. It would be read for errors, the sub would put in the corrections then wait on the next shift of comps to paste up the final page. It was a slow business but not onerous.

Then along came a new editor, Max Prisk, who decided that Letters should be a part of news. That some letters should come off the news. The very nature of posted mail made reaction at least 48 hours old but it was a welcome change of attitude. At that time faxes were rare, slippery, slimy things difficult to read and usually emanating solely from businesses. Because the date letters were written has always been published, readers were quick to note the short gap between writing and publication of some letters and twigged that the facsimile machine was a potential threat to posted mail. Regular letter writers were indignant. But for me it was a blessing because, and here I have to tell the truth, before taking the job I wasn't a reader of the Letters page. I'd tried, but found it irrelevant – too many pompous letters from self-important people saying exactly what Mandy Rice Davies would expect of them. The fax promised relevance and, most important of all, speed.

Before long the fax spread from office to home and could be sent at any time of the day or night. Plain paper faxes became the norm. It released letters from the tyranny of the post office at Easter, Christmas and long weekends. I have spoken before of our Squirrel Nutkin behaviour at these times. We would start to hoard the posted mail weeks before these breaks – timeless letters unconnected in any way with the current events. We'd ring these letter writers, explaining our problem, pointing out the difficulty in contacting people during the holiday times. We'd ask permission to run their letters at a later date with a future writing date. People were always very understanding, perhaps even amused at this subterfuge. In the interim we prayed their health had held up and that we weren't publishing, and dating, them posthumously.

Slowly the faxes outstripped the posted mail and then came e-mail. At first e-mail came from universities and what a shock that was. Until then I'd doubted politicians' claims that the standard of English in schools had been declining. I knew that my own children's spelling left a lot to be desired. The university e-mails proved that English was of little importance in academe. Streams of consciousness spilled across the screen. Phrases instead of sentences – verbs seemed to have lost their appeal – confusion as to what the subject was – but barrel loads of buzz words and "paradigms" galore. All this combined with spelling, from people signing themselves lecturer and associate professor, that made me realise my children weren't the exception.

As e-mail spread the quality of the letters improved. People began to impose on themselves the discipline of length and composition that they'd applied to paper letters. E-mail is the ultimate liberation for the Letters page. It frees its editor from having to wait for inputting thereby giving as much immediacy as print publication will allow and, in the case of the *Herald* On-Line, almost total immediacy. The most important contribution the fax and the e-mail has made to *Herald* Letters is giving it a new lease on life.

It was evident when I arrived in the job that the letters writers and presumably the readership of the *Herald* was ageing fast. As one after another *Herald* letter writer of long standing died at a ripe old age, I began to fear they'd all die out. At first the fax introduced middle-aged business people writing from their offices. Later it spread to the home and even busy housewives would rattle off a thought or two in a spare moment. However, it is e-mail which is the saviour – it has delivered to letters that previously elusive object – the young reader. The *Herald*, like all newspapers, is desperate to attract the young reader and in my view letters is one of the few areas which can be a magnet for them. It's amazing what a drug writing to the editor can be for some people – once they see their words in print they're hooked. Now the trick is to get more women to write – men outnumber them two to one.

How do I get my letter published? That is the most commonly asked question of Letters staff. Some ask for "the formula". There isn't one, and even if there were it would change from day to day depending on the day's mail. The mail is always a feast or a famine. On some days you want to hug yourself at the high standard – a case of too much choice is a fine headache. On others it's abysmal and a case of beggars can't be choosers.

The most important advice a would-be letter writer can be given is that size does count. The box on the letters page carries the recommendation: "Ideally letters will be a maximum 200 words..." My guess is the average letter published is somewhere between 100 and 170 words in length. There is no prohibition on sending letters in excess of 200 words but it isn't recommended. The smartest of the letter writers learnt a long time ago that the shorter the letter, the greater its chances of being published. The very short letters are in great demand as "fillers" when the sub-editor has a short column. With the exception of the short, pithy letter, most letters can be improved with editing but it's a temptation I learnt to resist.

I found that even when edited for the better, the writer is rarely satisfied. He/she wants to cling to each word. For this reason, if time permitted, I usually gave the writer the option of not being published because of excess length or of taking the letter back, cutting it himself/herself to the required length and resubmitting. That way they couldn't blame the *Herald* for any criticism the letter might attract – it was all their own work.

The exception to this practice is when there is a series of letters to be published on one topic. They may take up the entire page, a lead or the right hand column. The aim is to give the reader a feel for the range of opinion being expressed. When letters overlap or are repetitive they have to be cut so as many points of view as possible can be included. This often involves cutting the letter to 100 words or less. If the writer doesn't find that acceptable, the letter isn't published at no great loss as there's usually another to take its place. One finds in the job there are few original thoughts – it's just that some people express them better than others. One fellow, whose long and tedious letters were rarely if ever published, wrote on a number of occasions threatening copyright action on the grounds that it was clear I was passing his letters over to the editor who was "stealing" his ideas for the paper's editorials.

In newspapers the most elusive but most important thing to achieve is "mix" and tone. They are both difficult to define, they're almost a gut feeling. People forget that general newspapers such as the *Herald* have to appeal to a broad range of people possessed of a diverse range of interests. These days there is a need for papers to do more than inform, they must also entertain, and the Letters column is no exception. The more serious in our midst would write to complain of

unnecessary levity and triviality in the column, considering such offerings as a waste of space which should exclusively be devoted to all the suffering in the world. Others thought the page should be all wit and no wisdom.

One man castigated me for running too many "reasonable" letters. In his view the Letters page should be a coliseum for blood sport where readers went for each other's throats. It's easily done but scarcely illuminating. There are a number of letter writers, almost without exception the politically one-eyed, who can't carry an argument without resorting to personal abuse. Politicians they oppose or other letter writers whose views they disagree with have epithets hurled at them. If you suggest they remove these superfluous insults you are accused of censorship or of being in cahoots with the person at whom their vitriol is directed. One thing which really irked me was the constant reference by some letter writers to the Prime Minister as little Johnny Howard.

Getting the "mix" right is the most difficult thing to achieve in letters – to have something for everyone – those of serious bent, those who want information, the word pedants, the lovers of wit and whimsy – all have to be catered for over a period of time, but you can't publish what you don't have – the readers are in charge of the copy flow. At times you almost try to will the readers to send in points of view that would counter the prevailing one that's being received by the mail bagful.

The thing I feel most strongly about is that letters should be a readers' page as free as possible of VIP and politicians' letters. They are constantly having their views quoted in the front of the paper. If they turn up in letters, it gives the readers the wrong message – you're not welcome here – you're not important enough. To me the ordinary reader is the newspaper's most valuable VIP. He/she is the lifeblood of the newspaper, and it's a foolish newspaper editor who doesn't listen to the feedback they provide.

Politicians are the kiss of death for a Letters page. It is difficult to exaggerate the anger and resentment their letters produce in readers. I suspect having a letter published does them more harm in the electorate than they realise. They demand their letters be published and most newspaper editors find it difficult to withstand a bullying politician, if only to get them off the phone. The only thing worse than a threatening politician is an ex-politician suffering from what Gerard Henderson describes as limelight deprivation syndrome. I used to dread the arrival of abusive mail from readers each time a politician's letter would appear. Another thing must be said of *Herald* readers – between them there doesn't seem to be anything they don't know, even on the most esoteric of subjects.

Voices

One of the charms of interesting talk-back radio is the voices. The variety of accents, phrases and idiom. From the voices we draw all sorts of conclusions, some no doubt erroneous, about the unseen person. American news magazines, *Newsweek* for example, have a homogeneous house style which requires their sub-editors to refashion copy. There is an understandable desire on the part of all sub-editors to make copy easily readable and comprehensible. However, in the case of Letters, uniformity reduced all to the same sounding "voice" which reduces much of the charm and nearly all of the individuality. I might add that Letters sub-editors are only too conscious of this and if, for example, a migrant or visitor, for whom English isn't the mother tongue, writes in perfectly correct but non-idiomatic Australian-English, the letter won't be changed to make him sound like someone who's been speaking English from birth. It's a joy to publish letters from people of all the former British colonies to appreciate what a rich language English is in all its forms.

A number of years ago a Japanese journalist was posted to Sydney. Almost immediately he began writing letters to the editor. His English appeared to have been learnt from books alone. In parts his letters were barely intelligible but it was evident there was a very good mind at work with very strong, often quite contrary, views. We persevered with each other. He'd write, I'd rewrite it, fax it to him for his opinion. He'd return it with a number of small changes and it would be published. His English improved so rapidly that last time I saw a letter from him I can safely say his written English is better than mine – quite shattering really.

Another voice I always enjoy is the country voice – down to earth, no artifice, and from the heart. The fax and e-mail have given the *Herald* the opportunity to regain its country correspondents. The *Herald* was once required reading in the country. The correspondence from the bush was starting to wane when I joined Letters, a sad development as some of the most interesting mail came from the country. So my advice to future letter writers is be yourself – use your own "voice" don't affect a literary or formal style – plain and simple English is all that's needed – it's what you have to say that the reader is interested in.

Topicality

The shrewd letter writer, usually faster off the mark than the average journalist, knows that the Letters editor is desperate for copy when there is a breaking or ongoing news story. Right now the Phil Coles saga or the Keating piggery comes to mind. There's no doubt the fax and the e-mail has the edge in these circumstances but when a news story has legs the posted mail also has a chance of publication provided developments haven't overtaken the letter's content. The posted mail is

important if the full range of views is to be displayed because it tends to be more conservative than either the faxes or e-mail. I suspect the explanation for this is that posted mail is sent by an older age group. I have nothing to back this up, just an impression from the handwriting and the hints given as to age in these letters.

Keep it simple

It's difficult to solve the problems of the economy or the crises in the Middle East in 200 words. If the writer is trying to bring the reader around to his point of view, then one or two points well made has a far greater impact than trying to cover every aspect of the subject in 200 words.

So to summarise, keep it brief, keep to the point, keep it topical or informative or amusing, be yourself, write without affectation and don't delay once you know what you want to say – put pen to paper or fingers to keyboard and get it in as quickly as possible, and above all provide your real name, your home address and a day and night telephone number. Letters without this information go into the waste paper bin. This particularly applies to e-mailers who seem to think that e-mail names such as "Godzilla" with its e-mail address is all that's needed.

It crossed my mind the other day how ironic it is that at any time, and even more vigilantly at election times, the *Herald* verifies the identity of its published writers with more diligence than the NSW Electoral Commissioner is permitted to do under the law. In other words, it's easier to get into parliament flying false colours than it is to get a letter published in the *Herald*. Ironically during election time anyone seems to be able to ring a talk-back radio station without having to prove who they are. It seems to be a very slack Electoral Act.

There are times when things get into a bit of a rut on the Letters page and there's a need to put a stick into the hornets' nest to get a bit of action, a change of topic. On one occasion, during a dull and serious bout of letters, one arrived which was a gift from the gods. From memory it was one of those slippery continuous-roll faxes. It had a most impressive copperplate letterhead at a time when letterheads were not cheap to have done. A bromide had to be sent to professional printers, not produced as can be done now on a personal computer at no cost. It was from a "Sir somebody" or other, a military man, a general no less, with more gongs after his name than I had ever seen. All the gongs were accurate, not made up. The name was unfamiliar so I went hunting through Australian and British *Who's Who* and all present and recent military listings to no avail. The address was a Potts Point post box and the telephone number simply rang out every time we rang. I desperately wanted to publish this letter. It was certain to provoke a good debate, because at that time the mere suggestion that self-confessed homosexuals should be permitted to serve in the military forces

was enough to give a great many people a seizure quite apart from entire hierarchy of the RSL. Here was a military man in brilliant Colonel Blimp writing style not only canvassing the idea but supporting it by citing the bravery of famous military leaders of history, either known to have been homosexual or suspected of so being. There was no way I could authenticate the letter and I almost wept with frustration at not being able to publish it during a doldrums letter period. *The Australian* succumbed to the temptation and gave the letter great prominence. One of those bound to have a stroke on reading the letter recovered sufficiently to complain to the Press Council which gave *The Australian* a terrible shellacking in its judgement. There was no feeling of superiority on my part, just the grateful feeling of "There but for the grace of God...". On a lighter note, false suburbs are sometimes given for reasons of snobbery – the adjoining suburb being more desirable socially. Still it is a form of anonymity.

One of the problems confronted by Letters editors is when the correspondence genuinely poses names which sound phoney – one poor woman has the name of a dead movie star. Whenever she was published the more sceptical would accuse us of naivety.

The reason the *Herald* informs letters writers that their letters are to be published is twofold. For non-controversial letters it is a courtesy so that the writer can keep an eye out for it in the paper. But there is a more serious reason why the *Herald* goes to such lengths to verify letters. Imagine if someone were to put your name to a letter espousing views that were a total anathema to you. Everyone would smell a rat if a letter arrived from a Fred Nile endorsing the Sydney Mardi Gras, but when it's Fred Bloggs whose views are unknown to you but who shares Fred Nile's mindset then the letter's publication would be devastating for him. Only once was I told by someone that he hadn't written the letter we were about to publish.

E-mails are a far riskier proposition it would appear. Within a short period of time once e-mail access became common in offices we had a few denials that the e-mail we were about to publish had in fact come from the name on the e-mail. A bit of office mischief seems quite easy – send an e-mail from a person's PC when they're away from their desk. That sort of thing is not unknown in the *Herald's* internal message system but it's far more serious when it involves sending letters for publication. Often the more controversial the subject the more determined some people are to use a false name and address. There can be no doubt that some have slipped through the net, I think I know how to do it without being detected, but *Herald* letters staff have become great sleuths with the aid of the State and federal electoral rolls and the indispensable Telstra CD.

A Fairfax lawyer once warned me that you never know where a letter writer is coming from – a journalist you can quiz about the accu-

racy of his/her facts but the letter writer you don't know at all. He or she might have a long history of malice towards someone and so the Letters editor must keep a sharp eye out for possible defamations. There is a golden rule - when in doubt don't publish.

One removed

The most gratifying part of working on Letters is letting people know their letters are to be published. Some, particularly those who've never written to a newspaper before, react as though they've won the lottery. Nearly all want to have a chat, to tell you about the genesis of the letter and their feelings. The editor before me really enjoyed this part of the working day, but I decided early on that I would leave this to the Letters assistant, not out of any misanthropy on my part but because it prevented me from building up any sort of relationship which would make me feel beholden to publish their letters. I'd already found that the job put a strain on relationships when letters from friends weren't published. There is a great assumption in Sydney that networks are the key to getting what you want. The present *Herald* letters editor, Kerry Myers, showed me a letter last week which said, in part, this: "Kerry we don't know each other from two bars of soap but there is a need of sticking together in 'Society' like soap in a carton. The purpose of this letter is to get acquainted. So I can get some letters in the paper *SMH*. Because the old saying is; It is not what you know - it is who you know. So now I tell you who I am. My name is XXXXX age 60, came to Australia age 10. I didn't learn anything in school so you will have to correct the spelling. The purpose of my letters will be to solve the problem of the planet.... Kerry if you print my letter I want it to be anonymous or signed 'The Observer of the Human Circus' and also would I get a ring, if it's not printed on Saturday, because I only get the Saturday paper. I cannot risk reading too much because it overloads my brain and I get a headache."

One regular letter writer I did make a point of speaking to was John Minchin. What a charmer he was. Whenever there was a letters "debate" he'd take himself off to the State Library. The resulting research, not always for publication, was meticulous. When he died in 1993 at the age of 84, his son Antony observed, on his association with St Mark's Darling Point and interest in the Letters page: "He was a pillar of the Church and a column of the *Herald*."

Trivia

The great Volvo debate had two incarnations during my time. First in 1994 and again in 1996. R. Makim of Toormina kicked it off:

When I retired many years ago, we bought a Volvo. We did this in the belief that it would do us till the end of our days. We were dead right: the old Volvo goes better and better as the years go by, whereas we are steadily deteriorating. Having survived a melanoma

operation and innumerable incisions, burn-offs and freeze-offs for more minor skin troubles, I always wear a hat, even when driving the trusty Volvo. After years of hair-raising experiences, I have now come to the conclusion that a Volvo driver wearing a hat arouses in most other road users an emotion just as instinctive and powerful as that of a funnel-web spider which, I understand, flies into a rage and drips venom from its fangs at the mere sight of a human being. No matter at what speed I am driving, such people will do anything, absolutely anything short of mounting the footpath, to pass me. Once past, I can see them visibly relax, settle back in the seat, give the old neck and shoulders a bit of a stretch and loosen up, as if to say: "Thank God I've him out of the way - shouldn't be allowed on the road!" I have a friend who drives a Falcon bare-headed at about the speed of a hearse running early for a funeral. He has no such trouble. People seem to respect his careful driving. Why is this so?

By 1996 the bete noir of the driving population switched from Volkos to 4WDs. One reader saw the Volvo as a labrador and the 4WD as a rottweiler, another threatened to move out to sea if Volvo ever made a 4WD, only to be informed that they do - it's called a C304! Few things are new, I distinctly remember years before, on radio at least, a similar attack on men who wore bowling hats and drove Valiants!

The readers of the *Herald* write letters of a quality and standard that compares favourably with the Letters page of any newspaper in the world. It was an honour to edit the page, despite the tub-thumpers whose letters invariably start with the words, "I was appalled when I read..." which make my heart sink. The rest made up for them.



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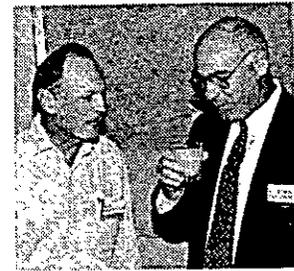
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12

1. David Gruen, Ann Gruen
2. Pat Spring

3. Alison Crook, Julie Webster

4. Jack Last, Ray Clemens

5. Graham Bradley, Peter Graham, John Lambie

6. Meredith Hellicar, Michael Shepherd

7. Rick Bates

8. Robert Yezzerki, Roslyn Maloney, Morgan Nyland

9. Matthew Hua

10. Robert Talbert-Stern, Stephen Treanor

11. Kevin Morrison

12. Margaret Calvert, Narda Haxton

Photographer: David Karonidis



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RAISING GROWNUPS

- LESSONS FROM THE MOTHER-SON RELATIONSHIP

Babette Smith

Late last year I was invited to Canada by the Centre for Feminist Research in Toronto to be a keynote speaker at an international conference on "Mothers and Sons". The organisers sent me a list of themes in advance, from which I could choose my topic: top of the list was the subject "feminist mothering". It was accompanied by a description which assumed feminists would mother boys differently to other mothers and that their self-conscious feminist style would result in equality between the sexes.

Deciding that it was the duty of a keynote speaker to be provocative, I called my paper not "Feminist Mothering" but "Mothering for Gender Equality" and began by telling my fellow feminists that my research revealed there is no such thing as feminist mothering and certainly not a version that produces results beneficial to feminist goals. Indeed feminism frequently proved detrimental to equality.

All is not lost however. It is indeed possible to mother a boy in a way that achieves feminist goals of gender equality but the key lies in the dynamics of the relationship rather than an ideological approach.

The development of mutual respect between mother and son, for instance, is more fundamental to attaining feminist goals than attempting to implement feminist theories - and mutual respect includes remembering that there are two parties to this relationship both of whose perspective must be considered, and one of them is male. One of the most salutary moments writing my book *Mothers and Sons* was realising that I had unthinkingly approached it only from the female point of view. It was not until I remembered that there was another party and took account of him, that I began to achieve some integrity on the subject.

My data showed that acting with assumptions of equality is more effective than talking about the importance of being equal. It is so easy - and so many of us fall into the pattern - of listening, listening, listening, and never expecting to be listened to. But, equally important to showing respect for the male half of the relationship is for us, the moth-

ers, to put out expectations of respect. When our boys were growing up, how many of us really expected them to reciprocate interest in what we were doing? And if we do not, what are the implications for their adult partners?

In all of this, of course, the self-esteem of mothers is fundamental to achieving the kind of interaction between woman and boy that creates respect. Only people with self-confidence expect to be respected. Feminism's great contribution to the modern mother/son relationship is the widespread increase in women's self confidence and the more supportive social context in which they operate. This alone has improved the dynamics of the relationship enormously so that contemporary mothers and sons interact more enjoyably and with more mutual admiration. They take pleasure in each other's company more than they did in the past and the old impatient boredom, that was formerly so evident, particularly from the teenage years onwards, has diminished considerably.

The details of interaction between woman and boy, however, are not so encouraging. We have been perpetuating inequality through the mother/son relationship more than we realise - to an extent that, at first, appears as if modern women have betrayed feminism in their relationship with their sons. Closer investigation instead reveals that feminism failed the mothers of sons by leaving them to flounder in the vacuum created by anti-male attitudes.

Thirty years ago we made the, then justifiable, mistake of thinking we could improve women's condition to the point of equality in isolation from men. In some cases this idea blazed into antagonism towards all things male. Of course it was necessary, then, for us to take that approach. We all recognise that we had to break the nexus between men's needs and the subordination of our own because, without freeing ourselves from that yoke, we could make no progress at self-definition.

But my heart sank when I heard Germaine Greer publicising her new book with a fresh burst of anti-male rhetoric and telling the media, "I'm not interested in what's wrong with men." Those of us who support the women's movement and who've spent the last 20 or so years living with men, raising men, studying with men and working with men, know she's stuck in a groove that's out of date. Perpetuating antagonism to all things male will not produce equal outcomes for women. It will not solve the dilemma of how to balance work and family. It will not change the economic or social context of women's lives. In fact, by rigidifying attitudes, it may well entrench the difficulties. Generally, it will not make a helpful contribution to the relationship between the sexes.

Germaine Greer has forgotten the ending of *The Female Eunuch*. In its final paragraph she told us: "The first significant discovery we shall make as we racket along our female road to freedom is that men

are not free, and they will seek to make this an argument why nobody should be free. ...We can only reply that by securing our own freedom, we may show men the way that they could follow when they jumped off their own treadmill..."

If this had been the theme of Germaine's sequel, it would have been relevant and timely. My research – and others since – has made it very clear that it is time to adjust our attitudes, time to recognise that today the key to furthering the great goal of the women's movement – equality between the sexes – is to help men solve their problems with masculinity. And, furthermore, that greater understanding about the masculine context of our boys' lives is the key to creating those dynamics between mother and son that result in gender equality.

Germaine Greer is right in claiming that there are still many inequalities in female lives which must be addressed but the majority identified by Greer and others as warranting attention are external issues. Yet, many women would share my view that perhaps the most devastating area of inequality which remains, is the inequality of emotional intelligence. Despite 30 years of activity by the Women's Movement, this aspect of relationships between the sexes has changed little and it is a discrepancy from which flows many of the most hurtful and isolating inequalities in women's lives.

Women need men who are grown up, emotionally mature to the point that they can emotionally nurture themselves and nurture others. They need men with the emotional maturity to nurture their children: you cannot be an effective parent if you are still a child yourself. Nor do you have the capacity to provide reciprocal emotional nurturing for your partner.

In the interests of gender equality at its most intimate level, we must understand what impedes emotional maturity in men rather than simply criticising them for it. We need to ask: what blocks self-awareness? What creates emotional disregard and hinders empathy? Why don't men take emotional responsibility? Who are the gatekeepers to emotional development and what is their role?

In their maternal role, women are strategically positioned to play a fundamental part in their boys' emotional development, but to be effective they need greater understanding of the male culture to which he belongs. Female experience and feelings can shed valuable light on the male condition and they should not be disregarded, but we don't know as much as we think we do about men and masculinity and our female interpretation of male problems can be blinded by assumptions which are feminist or traditionally feminine. Feminism has been a vital source of self-confidence for women, but it has also created preconceptions which act as barriers to mothers understanding their male children. It empowered the female perspective which, in general, benefited the mother/son relationship because it gave mothers some much-needed-

ed confidence in their judgment but, as psychologists know, a mother's ability to distinguish between her own needs and the child's is critical to the success of their relationship. Encouraged by feminism, some mothers of sons came to believe they did not need to take account of the male point of view.

As a feminist, I was appalled to realise the detrimental effect of feminism in the mother/son relationship. The disparagement of men's perspectives made the task of understanding a male child's needs even harder than it is just because he's the opposite sex. Some mothers so feared the impact of anti-male rhetoric on their boys' self-esteem that they quarantined their sons from feminist ideas, while simultaneously raising their daughters as feminists. Most mothers of sons have found that ideological gender prescriptions about how to raise boys don't work, which is not surprising, because they were conceptualised with no account of male reality. Feminism then becomes detrimental to the development of gender equality because lacking any constructive or pragmatic advice on what to do, women fall back on old ideas of what makes a man and old patterns of how women should relate to men. As a result, too many of us have been rearing lovable but emotionally old-fashioned boys for our brave new girls.

One old pattern which is still frequently present in the mother/son relationship is the romantic ideal of a masterful male and submissive female which, obviously, is no way to interact if the goal is equality between the sexes, because such behaviour contradicts any verbal insistence that men and women are equal. Yet you find both elements co-existing in modern mother/son relationships. And this kind of dynamic also inhibits emotional maturity in boys because it encourages women not to hold their male children emotionally responsible.

Women's failure to encourage emotional responsibility is exacerbated by their ignorance about masculinity. As mothers, we sense the precarious facade which so many boys must maintain to survive in the male world, but we do not understand its source and too often, we conclude that males must inherently lack emotional capacity. Women told me that they are far more worried about the emotional fragility of their sons than they are about their daughters with the consequence that they protect the boys emotionally while relating to the girls in a way that is emotionally unsparing and far more sophisticated. Our daughters spot the different treatment, but they are not jealous. On the contrary, they feel privileged at being treated as more emotionally responsible.

In this way, mothers underestimate their boy's emotional capacity and, in doing so, pass up an opportunity to develop the emotional maturity that will ultimately deliver equal nurturing between partners.

Fathers recognise the unused capacity in their boys but, to date, they have not understood the nature of it. The subject usually degenerates

ates into a stand off between parents along the lines of – “You’re too soft on him”, “And you’re too hard” when both parents are discussing a boy’s potential for emotional maturity but neither recognise it. The whole subject needs airing from a fresh angle, free of preconceptions and antagonism and there is a constructive role for both parents to play in this crucial area once they understand the need. Boys have more emotional capacity than we recognise. They just need “stretching”.

There are many discrepancies between male and female interpretations and valuable information about how women accidentally perpetuate inequality can be gleaned from comparing the two perspectives. We know that men’s opinion about their mothers calls into question some of women’s most cherished beliefs about how they are understood in their maternal role but we have not been aware of the extent to which we help perpetuate our boys’ misinterpretation. For instance, mothers know that although their daughters may scorn maternal sacrifice as “weakness”, at least they understand it is a deliberate choice. Despite feminist research into male attitudes to mothers, many mothers don’t apply it to themselves and assume that their sons not only recognise the choice but admire the nobility of the maternal role. Encouraged by feminism not to take account of the male perspective, they don’t apply the feminist research and fail to realise that to boys self-sacrifice comes across as a mystifying lack of self-respect which makes them uncomfortable or uneasily contemptuous.

So, wrongly assuming that their sons, like their daughters, understand the concept of the “Good Mother” is an aspiration, not a reality, many women miss the importance of disabusing him. Burdened by maternal guilt, they inadvertently reinforce the stereotype by, for instance, apologising to their male children for being at work rather than at home, while simultaneously admitting their daughter into the joys but also the difficulties of their jobs and the strain of trying to balance work and family life. An opportunity to develop more sophisticated understanding in boys is passed up.

Because they know what a burden it can be trying to live to society’s idea of the “Good Mother”, women have something to contribute to the men’s movement on the subject of parental icons. One of the first tasks of the modern women’s movement was to challenge stereotyped roles, so that, today, there are many varieties and styles of mothers where once there was only one approved model. If you didn’t fit the mould you were criticised. Even worse, your children, particularly your boys, thought the stereotype was how you were meant to be and if you didn’t fit the criteria, they felt there was something lacking in the way you treated them. The legacy of that narrow yardstick is an ambivalence that lingers in the hearts of men who are middle aged today. Stereotypes about how parents *should* be are damaging to relationships with their children. Feminism taught us that. Yet, today, men are at risk

of creating a similar burden for themselves – a “Good Father” stereotype, which could obscure their human fallibility and produce the same ambivalence as the “Good Mother” has done towards women.

The culprits include popular spokesmen like author Steve Biddulph who, in my opinion, is reinventing the wheel without understanding the role of the spokes in making it turn. And his words are being swallowed as wisdom by an uncritical audience that, after years of discussion about the single mother, is simply eager to legitimise a role for fathers – any role.

It is true that children need both their parents. It is also true that women need – and most welcome – men participating fully in their role of parent. But fathers are at a critical point. They have a chance right now to benefit from women’s experience and refuse the imposition of stereotypes. They shouldn’t hesitate to wave their hand in the air and say loud and clear, “Hey, that doesn’t fit me. One size *does not* fit all.” And fathers could find they have company. Research is now showing that many men are becoming anxious about living up to the role being fashioned for them. (“Fitting Fathers into Families”: a survey of 1000 Australian men, funded by the federal government, quoted by Tom Morton in *The Sydney Morning Herald*, 15 March 1999.) And when women understand what is happening they will support men too because if this development is not halted, it could compromise the hard won progress in breaking down relationships governed by stereotypes.

Steve Biddulph and others are recycling out-dated Freudian theories as if they were new. When Biddulph announces – as if it was a new discovery “Girls learn to be a woman from Mum. The boys cannot learn to be a man from Mum...”, he is perpetuating the classic male confusion between sexuality and gender with the concomitant tension it creates. Please learn from women on this one – we once thought that our sexuality somehow rested on being ultra feminine in the stereotyped submissive way. Feminism taught us that self-esteem is what counts in sexuality as it does in everything else. Whether your boy’s persona is macho or “wussy” has no bearing on the nature of his sexuality and both mothers and fathers need to be aware of it to ensure that the real boy is not lost behind some phoney masculine facade.

In the interests of gender equality, our big challenge is to help boys become three dimensional people, something my research suggested they can learn from any emotionally mature, self-confident person in their lives. I found boys who were using their mothers as models and not reluctant to admit it. They were not learning sexual behaviour from women, but choosing to adopt characteristics and attitudes which they admired in their mothers and found lacking in their fathers, qualities such as the ability to listen, not to be judgmental, or dogmatic, to be flexible.

In the search for an enhanced role for fathers, another old-fashioned concept which is dangerous to gender equality and now being recycled by some men, is the idea that fathers can teach their sons to "respect" women.

Years ago, feminists exposed this version of respect as nothing more than good manners, recognising that true respect cannot be imposed, but is internally generated as a response to someone's personality or their actions. Furthermore, to achieve quality – and equality – a relationship must be forged directly between two people. Proposing that it be mediated by a third party encourages the very behaviour patterns that women identified as detrimental to them and which goes to the nub of mothering for gender equality by the way it affects the dynamics between mother and boy.

But, if women have something to offer the men's movement here, we also have something to learn. We have to get out of the way and allow male relationships to take their course. Too many women act as intermediaries between boys and their fathers and, as partners and mothers, excuse, plead, persuade, sometimes at their own initiative, sometimes at their boys request. Because we haven't sufficiently scrutinised the construction of masculinity, many of us mistake this role as a compliment to our own unique relationship with man and boy, not realising that it is actually a sad commentary about men's inability to relate to one another.

If we're not careful, if we're not sufficiently informed, women can be an impediment to gender equality by preventing men from sorting out their relationships with one another. So long as we stay in the middle, we allow men to avoid addressing the difficulties of masculinity and, instead, to bring those problems it creates into their relationship with us.

The construction of masculinity underlies all problems facing men and its effect on their relationship – not with us – but with one another is ultimately a barrier to gender equality because, so often, their attempt to dominate women is just an extension of the defensive struggle for supremacy with other males. At present, few people of either sex understand how the relationship between males detracts from gender equality. Most mothers of sons certainly do not, but nor do they realise their ignorance because, too often, we apply a female perspective to a male situation and consequently, misinterpret what we see.

For instance, because we don't understand boys' struggle for supremacy in the school playground we don't realise that often behaviour that we describe as aggressive, or showing off, has its origins in the need to be defensive. We underestimate the importance of physical and, equally, of verbal dominance in establishing a boy's relationship with his peers and the devastating inadequacy which develops in the boys who "fail" to measure up to the masculine yardstick. We are watching

the playground from a female viewpoint, waiting for our boy to choose his best friend, not realising there won't be one because that's not how boys socialise.

And many of us swallow the stereotyped idea that there's something charming in little boys tussling in the playground then, when it's over, forgetting about it immediately. But once you understand the dynamics of masculinity, and the importance of supremacy, boys rough and ready fisticuffs are not as simple or as appealing as they are often described. This is where boys learn emotional disregard because the swift resolution of their fights requires that they take no account of others' feelings and that they suppress their own: you can't be top dog if you feel sorry for the other guy.

When all else fails or when mothers of boys just don't know what is best to do, they understandably fall back on traditional responses. In mother/son relations this involves resorting to stereotyped assumptions more than we realise.

Lack of knowledge about masculinity for instance, still allows the idea of "the strong silent man" to survive in the mother/son relationship because, for women not on the cutting edge of feminist research, there is no other bearable explanation for their boy's withdrawal. So mothers interpret distancing according to men's myths, that is, as a demonstration of male maturity. Something which is a pivotal emotional weakness in men and a profound cause of gender inequality is disguised from mothers by the old stereotype of the self-sufficient male, who doesn't need the second sex.

Feminism popularised the idea that men were overloved and overpromoted, particularly in the 1950s. And, when examining the female condition in isolation, this was a logical conclusion. We failed, however, to recognise that men too were subject to detrimental gender stereotyping and, understandable as that mistake was then, it would be unforgivable not to address it now.

Women's self-esteem is always vulnerable in the mother/son relationship, however strong it may be in other aspects of their lives. They would gain confidence from understanding the reality of masculine pressures and it would be far less hurtful than living with the self-doubt that the male culture creates in the mothers of sons.

We must disseminate the experience of the sons of the 1950s who, years later as adults, still wonder why their mother didn't intervene when they needed her, who feel unloved because she didn't show them physical affection and have forgotten it was they who warned her off, they who instructed: "Don't kiss me Mum", "Don't show you like me. Don't be seen in my life." They don't understand the masculine culture, nor how it restrained their mother. As grown men, they just think she didn't love them enough. Too many boys still react like this

towards their mothers and it would help women if they understood more about the pressures that cause it.

There is nothing mature about men's separation theories which promote the achievement of male adulthood at the expense of their mother – and which then extend to justification for replacing one woman with another. In fact, these ideas are the ultimate immaturity. They are infantile. It is in women's interests to raise the subject again, not this time for its direct impact on us but for its effect on our sons, the damage it does to them and the consequences for us both in the mother/son relationship.

Men's challenge is not to perpetuate separation from women as their goal, but to have the emotional maturity to integrate us into their adult lives. When they dare to define growing up as something other than rejecting us, then every step towards mature separation between mothers and sons will be welcomed by women rather than dreaded as the likely end of the relationship. This is an example of how change in men could be of enormous benefit to women and, in particular, increase equality between mothers and their adult sons. Of course, such a change requires a redefinition of masculinity to one that overcomes fear of the mother. And for men to redefine what it means to be a man, they must first banish homophobia.

Homophobia is destructive to all male relationships. It damages the relationship between mothers and sons because of women's fear, and that of their partners, that something mothers do can turn their sons into homosexuals. Homophobia does untold damage to the relationship between fathers and sons because of the pressure men bring to bear on their boys to "act like a man" which, in turn, so often causes conflict between the parents, and a sense of inadequacy in the mother.

Feminist experience has something to offer on this topic because men must learn, as we did, to differentiate between sex and gender and realise that their masculine style has no bearing on male sexuality. Men need to recognise that suggestions for improving the relationship between fathers and sons will go wildly astray or, at best, have only cosmetic effect unless they accept that they cannot control their boy's sexuality and, furthermore, they do not need to try.

At present, too much of boys' behaviour is governed by the homophobic need to prove their sexuality. It creates the need to posture, to act cool, to deny your mother and your sister. It's behind disruptive behaviour in class, because it's not cool to concentrate, or to read too many books – your friends might think you're girlish. Homophobia encourages bullying and, in Australia, is at last being identified as a major cause of young males' suicide. All of these pressures are put on our sons in the name of being masculine.

Even when they don't understand its source, mothers sense the inadequacy behind their sons' facade. In an attempt to help him feel

more like a man, many will discard ideas of equality and set aside attempts to hold a boy emotionally responsible, thinking that boosting his ego even at their own expense, will help strengthen him. Thus, from love of our sons, we become complicit in our own subordination. And from ignorance about masculinity, we retreat to traditional patterns of relating rather than finding an approach more conducive to gender equality.

Women need to help men dispel the homophobic need for a masculine facade, so that the real male person will get a chance to exist. Only then will there be an opportunity for men to risk becoming emotionally mature.

And only then will emotional equality between the sexes be achieved.

I told the feminists in North America that my definition of mothering for gender equality comes down to the dynamics of the relationship between woman and boy, and has nothing to do with feminist ideology. It means applying the self-esteem we have gained from the women's movement to our relationship with our sons in ways that require their respect. It means adjusting our feminist attitudes to recognise that developing gender equality through the mother-son relationship requires us to understand more about the construction of masculinity and it is counter-productive to perpetuate our original position that it is in women's interests for men's needs and men's perspective to be disregarded. Thirty years on, it is very much in our interests to take them into account. It is the route to emotional equality between the sexes.



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1. Bernadette Kerrigan
2. Penelope Nelson, Ros Strong
3. Caroline Bergman, Ann Bergman
4. Pieta Thornton
5. Tim Curnow, Arnie Custo,
Vicki Madden-Custo, Jan Tyrell

6. Meg Lees addresses The Sydney
Institute
7. Janet Tarragay
8. Rosemary Stanton, Peter Stanton
9. Rosemary Hoskins & friend
Photographer: David Karonidis



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ECONOMIC

LEADERSHIP FOR GROWTH AND DEVELOPMENT

Simon Crean

We live in a world of increasing complexity in which constant reform is necessary just to keep up, let alone lead. To stand still is to go backwards. Growth can only be sustained by structural reforms and so our economic resolve must be underpinned by a focus on the level and the quality of growth. Tonight I want to set some markers as to Labor's direction on economic policy. Labor in government has always been willing to confront the issues that face the nation. Time and again we were able to adapt to changed circumstances and set a course for the country. During the 1980s and 1990s, we responded to the challenges of the time with a coherent vision for the future. It was Labor that:

- internationalised and modernised the economy;
- re-oriented our trade and diplomatic focus to incorporate Asia;
- revolutionised education and training; and
- introduced flexibility into the labour market in a fair manner through an incomes policy, tax-wage trade-offs, superannuation, and the social wage which delivered wage restraint but increased disposable incomes, increased the profit share and productivity, and underpinned the structural reduction in inflation.

More so than the conservative side of politics, Labor wins government on the strength of its ideas, and on the strength of the Australian people's understanding that Labor in government will be bold and courageous, fair and inclusive, in putting those ideas into place.

That is how we have been measured in past elections. It is how we will be measured in the future. We understand that governments always have a twin responsibility: First, to put in place policies that will reap rewards long after most of those involved have moved on; and second, to deal with the needs of the present while understanding the importance of what has been inherited. Given this background, I want to focus on:

- The structural issues in our economic system – savings and investment, competition, our skills base, innovation. These are the drivers of long run economic growth. They have been

ignored by the present government but will be the focus of Labor's economic strategy; and

- The multi-dimensional nature of the issues, in contrast to the government's one-dimensional approach.

The international environment

Nearly two years after the onset of the financial turmoil in Asia, the economic news in the region is mixed, though improvement is expected through 1999 and into 2000. There still remain risks in the recovery of Indonesia, fuelled by political and social unrest. China also bears watching with financial concerns raised following the closure of the Guangdong International Trust and Investment Company in October last year by the central bank and, to a lesser extent, debate about whether there will be a currency devaluation. In addition, other hotspots like Russia and Brazil still pose some international risks. But the real lesson of the regional crisis is that such crises can still occur in our global economy. It is in all our individual and collective best interests to come to terms with the economic and social issues underlying the problems and solutions to the regional crisis. We need to look at how each country and the international community responded to the crisis and draw lessons for the future.

The source of the region's financial problems have stemmed primarily from inadequacy in financial systems – poor corporate governance, poor prudential regulation, and inadequate transparency. During the 1980s and 1990s, Labor undertook significant prudential and regulatory financial reforms, which have buttressed our financial sector and underpinned a stability not seen in the rest of the region. The float of the \$A in 1983 and the performance of the Reserve Bank of Australia have generated credibility in the \$A and enabled the currency to absorb most of the fallout of the regional crisis without itself becoming a victim. Today we are reaping the rewards of the tough decisions taken in the 1980s and 1990s on financial sector reform, competition policy, labour market flexibility and reduction in protectionism. In the words of the Reserve Bank Governor in a recent speech: "... these micro-economic influences have been quite important, not just in explaining lower inflation, but also in explaining the economy's growth and resilience in the face of external contraction." Our reforms have helped give Australia enormous economic credibility in the face of the international economic crisis. It is credibility that was hard won. And it makes a strong case for continued economic reform.

The report of the government's Task Force on International Financial Reform is also an important contribution. The need for reform of the international financial architecture is heightened in an environment of increasing capital flows and the currents of globalisation. To meet the needs of an ever changing world, reform of the inter-

national financial architecture must be an on-going process in which intellectual blueprints are tempered by feasibility.

But it is against the backdrop of what Australia has to offer that it is a matter of real disappointment that the prime minister did not use the credibility our economic stability has given us or the considerable progress made by the G22 or the work of the Task Force, to take a greater leadership role at the recent APEC meeting. I welcome the treasurer's picking up of the ball dropped by the prime minister at the Manila Framework meeting in Melbourne last Friday. The pressure is now on Mr Costello to take up the challenge that the prime minister refused to accept when he attends the IMF Interim Committee meeting and when he meets the APEC finance ministers next month.

While moves to increase transparency, "bailing-in the private sector", supervision of hedge funds and large institutional investors, supervision of financial systems including peer reviews, and regional cooperation may not immunise the global economic system from future instability, they will help, and they will provide an opportunity for lessons to be shared and learnt and for countries to get their financial systems in order.

The changing international environment throws up many challenges – challenges which require a vision for the future and a resolve to not just keep up with change, but also to lead it. The process of globalisation will continue and the task we all face is how to deal with the new benefits and problems that mobile capital brings. The resolve for financial reform in the region and indeed in the global market place needs to continue. We will maintain a strong interest in this area in the future.

Economic management

One of the hallmarks of governing a modern, open economy is sound economic management. Governments, for their part, must operate with responsibility in fiscal policy, with absolute integrity in public administration, and with transparency and certainty in their dealings with the market.

Labor has always understood the importance of sound economic management. The Hawke-Keating government inherited a fiscal disaster and steadily turned that into four successive surpluses. The fiscal position we left the current government was far stronger than we inherited. At the last election, Labor was more fiscally responsible than the Coalition to the tune of \$5.3 billion over the forward estimates – and fairer.

Today, the real risks to the current budget position are risks entirely of the present government's own making. Keep an eye out for more fiscal sugar-coating to persuade the Australian community to swallow the GST pill at substantial cost to the budget. Labor's approach could not be more different. Modern government requires a

more strategic approach to outlays. A good economic strategy and budget is one where scrutiny of programs is made with respect to their contribution to investment and growth.

This government's indiscriminate cutting of education and labour market programs, and assault on superannuation and research and development, is an attack on the very drivers of future economic growth. Quality budgets should facilitate the drivers of growth, not hinder them. So, fiscal management must not only be about bottom lines but must also be concerned with the quality of the budget.

Over the past seven years, for example, average annual growth has been around 4.25 per cent – good growth under both parties (though I would point out a higher annual average under the last three years of Labor than under the current government). But while we averaged over 18,000 jobs a month in our last three years, the Coalition has averaged under 12,000 jobs a month.

So growth is necessary and governments of both persuasions have been able to achieve it. But it is not a sufficient condition for the long term. Growth with structural change and development, growth with purpose, is what we need to base the debate around.

The move to accrual budgeting, started by Labor, offers the parliament a great opportunity to properly account for and scrutinise government budgetary activity. There are transparency and efficiency benefits to be derived, and I hope that this year's budget – the first to frame the budget in accrual terms – will be handled with care by the government. However, the government must ensure that the public has the capacity to compare the old budget with the new and continue this for some period of time. This would be consistent with the spirit of budget honesty. Labor will continue to embrace the principle that future generations should not be made to pay for present recurrent expenditure. Those in the future who benefit from the investments made today should also share in the costs. This is what is often called the "golden rule". It is a sound principle of budget management and Labor will keep to it. The move to accrual budgeting, if done properly, should allow for a more transparent mechanism for meeting this rule.

When it comes to integrity in public administration, the performance of the current government is disappointing. *The Charter of Budget Honesty* has been honoured as often as the prime minister's *Code of Conduct*. Where was the "greatest tax reform of the century" subjected to the spirit of honesty of the *Charter*? Where were the financial implications in the Treasurer's recent announcement on trusts? The Senate inquiry that we insisted on and which the government fought so hard to avoid has revealed that:

- The government hid the details of the package from the people and misinformed them in their extravagant advertising;

- The government failed to tell us that the first year inflation impact was at least 3.1 per cent not 1.9 per cent;
- The government failed to tell us that their assertions of more jobs and growth were not backed up with treasury analysis;
- The government failed to produce any analysis to counter the modelling of eminent economists that show a significant risk of job losses, particularly in regional and rural Australia. Instead they continue to claim that the only losers are tax cheats;
- The government failed to back up its claim that the tax system is broken with any analysis. The tax system is not in crisis. Even Access Economics forecasts that revenue from sales tax will only erode by 0.018 per cent of GDP per year over the next decade which represents only 0.07 per cent of Commonwealth revenue – a relatively insignificant amount; and
- The government failed to provide pensioners with any real compensation beyond what they would have got anyway. As Geoff Carmody has shown, the government's 4 per cent pension top up is likely to be eroded away to zero.

But, I'll leave it to the Senate inquiries to detail the government's misinformation on these important areas. The point I'm making is that the government's approach to tax reform has been lacking in integrity.

No room for economic complacency

Despite regional financial instability, Australia's conjunction of good growth, profits, productivity and low inflation that started in the early 1990s has continued in recent times. But while many of the fundamentals remain sound, there are some worrying signs on the horizon.

A closer look at the National Accounts for the December quarter makes it clear that the main driver of our recent economic growth has been consumption expenditure, which contributed 3.9 percentage points to the 4.7 per cent growth figure. In contrast, the contributions of:

- total private gross fixed capital formation was minus 0.2 per cent;
- total machinery and equipment was minus 1.0 per cent; and
- total gross fixed capital formation was only plus 0.1 per cent.

Recent retail trade figures show record surges, rising 5.2 per cent in January this year. At the same time, personal credit has risen 15 per cent in the past year. Similar to the United States, we share the characteristics of falling household savings, rising credit, and wealth generated by the boom in the stock market.

While one can never begrudge people's consumption, the key to long term sustainable growth is not immediate consumption, but investment (or future consumption if you will). Growth based too

heavily on immediate consumption represents a failure to secure the future. It's a point that Mr Costello actually agrees with. In June 1994, responding to strong national accounts figures, he said:

... the trouble with this growth is it's overwhelmingly based on spending, on consumption. Spending and consumption is the boom/bust type cycle. It's saving and investment that the Australian economy needs for sustained recovery. You can't run sustained economic recovery without growth in business investment. You can't run it off diminished savings and you can't run it indefinitely off increased consumption ...

The growth in consumption has also had the effect of increasing our current account deficit to its now record level of \$28 billion for 1998. As recently as a fortnight ago BIS Shrapnel forecast it to rise to some \$40 billion. While consumption of imports is not a bad thing, the key issue is always our ability to pay, and if they are investment imports they provide a firmer basis for the future. I must say that I am not as sanguine as the Reserve Bank governor, who recently claimed that the markets were quite accustomed to large current account deficits. We shouldn't become so conditioned to high deficits that we don't recognise a problem when it does develop or become complacent on the need to maintain a focus on structural change.

We have to tackle the current account because it is our brake on growth. Policies which stimulate net exports are what is needed. These are policies which ensure that we are internationally competitive and more productive. These are policies which encourage skills, innovation, and value adding not by turning our backs on our commodities, but by doing more with them. It is about combining more effectively our natural resources and human resources, ensuring that Australia trades proportionately more in the price setting not price taking theatre of world trade.

Addressing the savings-investment imbalance with policies to facilitate exports and import replacement will have structural benefits for our balance of payments. As we did before the last election, we will be looking afresh at policy mechanisms to address market failures and inadequacies – particularly innovation, skills development, venture capital. At the last election, we were the only party dealing with these issues. Tax policy is an important part of this and our response to the Ralph Review will provide the opportunity to develop this area of policy.

Savings

The current account, like the consideration of growth, turns our focus to the issue of national savings. Savings, like investment, is the key to long run economic growth, particularly as it relates to technological change and innovation. Progress on this area is a necessary component of building the foundations for sustainable growth and facilitating

structural change in the economy. An important step to increasing national savings is to reduce unemployment. There is a strong correlation between the two. And of course a higher level of national saving can deliver rising living standards for future generations of retirees, without placing too high a burden on current taxpayers.

During the 1980s and 1990s Labor responded to the need for greater national savings by introducing a world class compulsory superannuation system – a system designed to secure a better retirement future for aging Australians and at the same time reduce the inter-generational burden of government funded pensions.

The impact of our changes for the future are that superannuation funds now amount to some \$365 billion. The current government has taken us backwards. They abolished the superannuation co-contribution and introduced a savings rebate that lasted all of six weeks. And they are in the process of systematically de-constructing Australia's premier savings vehicle. In addition to abandoning the co-contribution, consider the further evidence:

- introducing the superannuation surcharge tax;
- an ill-conceived choice of funds regime that Andrew Robb revealed in *The Bulletin* during the election campaign was nothing more than an ideologically driven means of undermining industry funds; and
- a half-baked idea to allow low income earners to opt-out of the superannuation guarantee.

The government's direction is clear. It does not support superannuation. It therefore does not support national savings. This is what I meant when I said that governments must understand the importance of the vision they inherit, as much as they must shape their own. The move to stronger national savings has been stalled. We must restart it. All of the advice suggests you won't get superannuation going without compulsion or incentive. But in moving down this track we need to examine how to introduce some flexibility of limited access to funds for investments, for example, in education and training. Vince Fitzgerald recently went further in considering ideas for integrating health provisions into retirement policy. We should and will be developing our ideas further on re-invigorating superannuation. Kim Beazley's speech earlier this month also identified a specific element of that consideration with the Aged Care Extension accounts proposal.

Employment

One of the more positive developments in federal politics in recent months has been the emergence of a broad consensus on Labor's 5 per cent unemployment target. The real task now is devising the best means to achieve it. While the government's solution seems to start and

finish with cutting wages, Labor is interested in addressing all the dimensions of the problem:

- driving the transition from welfare to work;
- increasing real disposable incomes;
- reducing costs to employers;
- establishing effective labour market programs; and
- facilitating investment and growth for the future.

We want to reward people for work and we want to reward people more for their skills and productivity. These are the creative paths to labour market flexibility that don't seek to punish the victim.

In 1995, Labor commissioned the *Australia's Workforce 2005* report to inform its employment policy-making. The report set up an employment roadmap, identifying where the jobs and careers of the future would be and pointing to the policy implications. In the spirit of bi-partisanship and sensible policy making in this important area, we need the report to be updated. I urge the government to commit resources and bring forward a similar Workforce 2010 study.

In the period since the election, five prominent economists have entered the employment-tax debate and advocated the use of tax credits similar to that proposed by Labor, as part of a strategy to reduce unemployment. The Business Council of Australia has recently issued a paper under its *New Directions* series again discussing the use of tax credits as a means of reducing unemployment. Tax credits offer us the opportunity to provide an increase in the disposable incomes of Australians. The tax credits mechanism has three effects:

- first, it reduces the need for people in work to seek all of their increases in income from wages;
- second, following from the reduced need to pursue increased wage incomes, the cost to employers of hiring people is reduced; and
- third, the tax credit generates incentives for people to move from welfare to work by widening the remuneration gap between working and not working without cutting transfer payments.

Conceptually, the BCA and five economists' proposals are similar to this.

Our proposal differs by incorporating a greater workforce incentive effect through a more generous tax credit. Our policy also has the potential to reduce the requirement to pursue higher income through wages to a broader segment of the wages spectrum ie beyond those on minimum wages. Let me illustrate these two points.

First, Labor's tax credit provides a greater reward for extra hours worked for the lowest income Australians. For every \$1 of income earned and from the first \$1 of income earned, Labor's election policy tax credit would add 10 cents. The BCA model adds just over 2 cents and only for those earning above \$10,000. This is simply not enough to

encourage people to move from welfare to work and it overlooks those working part-time or casual with marginal attachment to the labour market.

Second, let me illustrate the significant power of tax credits to take the pressure off wages. The current living wage claim of \$26 per week for workers translates into an after tax and benefit wage of just \$3.77 per week for a single income family earning \$23,550. This is because both taxes and social security payments are deducted from a wage increase. In stark contrast, for the same family, the tax credit proposal Labor took to the last election would translate into an increase in after tax and benefit income of around \$45 per week – 12 times the benefit the family would get from the wage increase. This is because Labor's tax credit is both tax-free and is not counted for social security purposes.

Let me underscore this point. To attain the same after tax and benefit position of the tax credit – \$45 per week – wages would have to rise by some \$126 per week.

I want to make it clear that I am not suggesting tax credits as an alternative to the living wage claim. A wage freeze has no place in Labor thinking – that is a crown the Prime Minister can wear.

What I am illustrating is the power of the tax credits proposal to take pressure off wages – a creative approach to tackling unemployment and to using the tax system and wages as tools to achieve desired economic and social outcomes.

Through it, we achieve a significant increase in disposable incomes not just for wage earners but for others including the farm sector. Securing fairness through such in-work remuneration is always the important pre-requisite to moderating pressure on aggregate wage growth. And that aggregate wage moderation needs to have regard to a new flexibility in wage outcomes around productivity and work place partnerships – a flexibility that will encourage a high-wage/high-skill labour market without fuelling wage-inflation.

Labor has a strong record in this area. The claims of Peter Costello and Peter Reith of lower real wage growth under Labor is consistent with their one-dimensional view of the labour market and their inability to tell the full story. Real wage moderation and the consequent benefits to employers were only possible because, as various studies highlight, Labor was innovative in increasing real disposable incomes for Australians through non-wage means.

Again, reflecting their one dimensionality and inability to tell the full story, Peter Costello and Peter Reith conveniently fail to mention that the strong growth in total factor productivity – that is the measure of the efficiency with which all inputs in the economy are combined to produce output – in the current expansion began under Labor.

Indeed; if you look closely at the current growth in total factor productivity, you actually find that while the period average 1991-1998 is around 1.9 per cent per annum, the last three years of Labor averaged 2.3 per cent per annum compared to 2.0 per cent under the current government. Labor's is an innovative approach to labour market flexibility without the social inequalities that flow from the "one problem one solution" approach being peddled by Peter Reith. Labor's employment strategy does not and should not begin and end with tax credits and wages. Ours is not solely a wages policy, but a strategy to reduce unemployment. To sustain employment growth and translate it into reductions in unemployment:

- appropriate fiscal and monetary policies must be pursued;
- regional, industry, population, and growth policies must address the spatial dimensions of unemployment; and
- policies on education (at all levels and forms) and innovation must augment human capital and facilitate the continual evolution of the economy.

This last point is particularly important. The economy in the years ahead will rely on a highly skilled workforce, comprised of people who are able to think and, more importantly, who are encouraged to think. To keep up in the new world, we need to improve our skills and engage in the innovation effort to place ourselves at the knowledge and technology frontier and push the boundaries.

It is from technological change that we generate a renewed export drive and move to replace imports. The structure of our balance of payments will in the end reflect such fundamental changes.

It is from technological change that we get the jobs for the future – jobs not even thought of yet. The way to reduce unemployment into the future lies in establishing the conditions – such as by improving the supply of labour – for industries to take advantage of the new economy. That is what industry policy has to be about not tariffs or picking winners.

With Australia's average effective rates of assistance to manufacturing now close to 5 per cent down from an effective rate of 21 per cent in 1983, and an agreed position on the higher tariff industries that remains within our APEC and WTO commitments, the tariff debate can be safely consigned to the dustbin of history. Labor eschews tariffs as a policy tool for the future. The path Labor set down in the 1980s and 1990s of opening the economy and reducing protection cannot and should not be reversed.

Industry policy must be concerned with facilitating new technologies and their diffusion. It must be about both facilitating the emergence of new industries and giving those industries in transition the chance to become new industries – to adapt and renew, or be left behind.

Business too must play its part. In bringing together capital and labour, it must pay close attention to the nature of their investments – ensuring they go into productive areas, into skills, into innovation, and into their organisational structures. In the period ahead, Labor will continue to flesh out the details of the employment strategy – in the area of tax credits and general in-work benefits, education and training, and innovation.

Again, I ask the government to join with Labor in this important task.

Conclusion

All my working life I have been committed to constructive dialogue to implement the ideas that take us forward. They have often involved significant changes and hard decisions for our traditional constituency. But they were necessary and we fought for and achieved change – change that underpins the strength of our economy today.

One of the reasons Labor succeeded, beyond the strength of our ideas, was our style of government. Leadership is not about bullying and confrontation. It is about knowing what is needed and taking the people with you. Labor can do that, because we are as comfortable in the boardroom as we are on the shopfloor.

Now we must continue to be creative to tackle the key issues confronting the economy. The world is changing around us at a rapid pace. The goal of government cannot be to just put in place policies that increase growth today. We must establish the foundations for growth in a decade from now.

Good economic management means structurally reforming the country – positioning Australia to share in the advantages of the new technologies arising out of globalisation. The economy of tomorrow demands our focus on investment in education, in training, in research and development, in innovation. These are the infrastructure of the information age.

I look forward to the challenge and to continuing the dialogue – in the boardroom and on the shopfloor.



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ISRAEL AND THE

MIDDLE EAST

Ehud Ya'ari

It's a pleasure to be talking here in Sydney. I'm not a representative, of course, of any Israeli government agency. I'm not always in full agreement with whatever I am going to tell you. What I think I will do is try to offer an overview, a very personal point of view on the situation in the Middle East or, as I am fond of calling it, the "Muddle East".

We are all realising now, five years after the signing of the Oslo Accords back in September 1993, that none of us, not the Israelis or the Arabs, are going to land any time soon on the golden beaches of a new bright Middle East. It's pretty much the same region that it was and I believe there is quite a degree of disappointment and disenchantment with how peace is going and where exactly it's leading.

The reason is that basically we are dealing with a process of divorce not of marriage. The Arab world is not seeking a way to integrate Israel and incorporate Israel into the region. And Israel (I'm being very frank, even blunt about it) is not really seeking a way to integrate in a region which was lagging even behind sub Saharan Africa in terms of economic growth.

Basically it's a process of divorce. I'm always saying it's the worst type of divorce, because it's the type where once you have all of the divorce papers signed and ready, you're still doomed to spend the rest of your lifetime with your ex-spouse in the same bedroom. That's the situation between us and the Arabs. There is no separation possible, even when we make peace.

Now peace is so complicated in our region that sometimes I'm well aware of people outside the region feeling a bit impatient with the slowness, the snail pace, of progress that we're making there. Not all of it justified of course. Because there are two built in tensions which are very difficult to solve in the process itself.

One, we are trying to embrace one another, Jews and Arabs, Israelis and Arabs, in order to turn our backs on each other. And it's a very difficult movement. If you stand in front of the mirror and you try to, on the one hand, hug your image reflected in the mirror and at the

same time turn your back on it, you will find that it's physically very difficult, if not impossible.

We tend to believe, we would like to believe, that politically and from a strategic point of view, this is our best option. I'm speaking as an Israeli. It is an embrace of friendship, of peace, of concession, of assistance. To embrace our interlocutors, ex-adversaries, the Arabs, but at the same time turn our back and go our own way. I remember vividly, the debate that raged here in Australia about the exact definition of relations with Asia. Australia and Asia. In our case, apart from the difference in size (tiny tiny Israel and big Australia), it's very different. There is very little that we can achieve in the region. And very little we could do for the region. There is, for example, very little Israel could do, even if it was given the opportunity, in order to help some of our neighbours, let's say Egypt, fight poverty. They are sliding and we are witnessing some of them sliding down a slippery slope of poverty. Egypt will probably become, unfortunately, a Middle Eastern India of sorts. Israel is too small and our economy too limited to be able to make a real difference there.

When it comes to trade, Israel will be soon exporting to the tune of \$20 billion a year. Our estimate, under the best of circumstances, with full peace and no hitches between us and the rest of the Arab world from Oman and the Persian Gulf all the way to Morocco and the Atlantic, is that the volume of trade that we can expect is less than \$1 billion. We are talking here less than five per cent of the volume of trade. And again, to be very honest about it, when I speak, which is quite often to Palestinian and Arab audiences in the region, I usually open by saying that we Israelis are grateful to the Arab boycott. Because it's thanks to the Arab boycott imposed on the Jewish community in Palestine before the establishment of Israel in 1948, and certainly ever since, that Israel has been able to turn itself into an exporting country and sustain a standard of living which is unknown in our part of the world. The comparative numbers would be, just to illustrate, Israel with a \$US16,000-17,000 per capita income per annum and with our neighbours, let's say Jordan, Palestine, \$US1,200-1,400 per capita per annum. That's a huge difference. There is very little complimentarity between Israel and the region. Hence the tension emanating from the embrace and the attempt to break loose and go our own way. The cultures that are closer to our heart, and to our business and commercial interests are not in our region.

The second tension which is fundamental in the process, stems from the fact that we are basically in a situation where we may commit ourselves to the ultimate possible concession from our point of view. There is not just ceding the territories, but also accepting, recognising and assisting in the establishment of an independent Palestinian State - with some restrictions of course, some limitations imposed on the exer-

cise of sovereignty such as the militarisation. We may do that. The majority of Israelis are, by definition, now ready to seriously consider this option. We can do that, and make the ultimate final concession, only to find out that we do not solve the Palestinian problem by making this concession. Where would it leave us? Supposing we had a Palestinian State and then we woke up the morning after to realise that the problem was not solved, that our objective, our only objective in this exercise, which is to end the conflict, to bring the conflict between us and the Arab world to a termination, didn't work.

Why is it so? Very briefly I would say, that under the best of circumstances, even if the Israeli left wing agenda is adopted by the next Israeli coalition government, and most of the West Bank and the Gaza Strip are ceded to a Palestinian State, then such a State would stretch to 11 or 12 per cent of the original land in contest between Israelis and Palestinians west of the Jordan River according to both ours and their estimates. Only 40 per cent or two fifths of those who consider themselves Palestinians would be inside. The majority of the Palestinian people is bound to stay outside the framework of peace.

Put yourself for a moment in the shoes of Mr Arafat. In case we make fully the concessions that he is demanding from us, he will still have a mission to accomplish. That is to go to the majority of the Palestinian people – one million Palestinians who are full citizens of the State of Israel, 2.6-2.7 million Palestinians who are in Jordan, almost a majority there, and many others. He will have to go to the majority of his own people, his own constituency, and tell them that at the great moment of victory, for the Palestinian people, as they reach independence, they will have no part in it. And that Israeli Palestinians are destined to remain under an Israeli government in a Jewish state. Two plus million Palestinians in the Hashemite Kingdom of Jordan will be told that they are doomed, are destined to remain there under a different government. Not as part of the Palestinian State. I don't know of any leader who would be happy to fulfil this role. Yet this role is part and parcel of the package that is possible between us and the Palestinians. Needless to say, Mr Arafat has no intention of giving up the drive, the momentum of the Palestinian national movement for more. And it will be one of the more important tasks of the Israeli negotiators to work out a deal which makes it indispensable for him to make the move and give up the rest of it.

The Oslo Accords had to be. There was no other way – a breakthrough into an inevitable deadlock. We have been now for three years in the deadlock. For any practical purpose, the Oslo process is dead. And it's not buried because the parties cannot agree what should be written on the tombstone. Oslo is not being implemented, not by the Palestinians and now not by the Israelis. After the elections in Israel on 17 May we can resume final status negotiations which is the final act of

the Oslo Accords. The Oslo Agreement assumed that through a gradual incremental approach as devised in Oslo, back then, there would be a chance for the emergence of a sufficient degree of goodwill, mutual confidence and experiments in co-operation, in order to justify and facilitate the negotiations over the harder issues which are waiting for us at the end of the day – Jerusalem, refugees, boundaries, statehood, etc. What happened, in fact, was that Oslo proved to be a positive breakthrough of historic dimensions. But it was unable to generate that degree of goodwill and mutual confidence that was felt necessary in order to move forward.

Why? There is one basic reason. The strategy of the other party – in this case Mr Arafat. I've invested a lifetime in Yasser Arafat. I was his first biographer back in 1971. We made a career together. He was doing whatever he was doing. I was writing on him. Either I came to understand a little about the man, or I'm a complete no good. I prefer the first option. The strategy of Arafat, from the very moment that the Oslo Accords were signed, was to maintain a climate of fluctuating degrees of violence, terrorism and adversity throughout the process, mixed of course, with fluctuating degrees of co-operation.

What the Israeli public was offered by Arafat was not a gradual reconciliation but a new state of affairs which was maintained in the territories and in Israel ever since 1993, in which violence, adversity, active animosity and certainly terrorism occasionally, were part of the peace package. It was rejected by the Israeli public back in the 1996 elections. A government came to power in Israel which did not like the whole concept of Oslo. Which did not accept some of the premises of Oslo. Then we had a debate which is still going on about compliance. Mr Netanyahu introduced the concept that Israel would not fulfil its own obligations unless the other side complied. This was his slogan, and remained his slogan throughout the election campaign. Compliance and reciprocity. Basically the combination of the Arafat strategy (not to fight terrorist groups in the Palestinian territories, not to fight except for the past two months, for which he has a reasonable political explanation) and a response by a new Israeli government, less committed to the principles of Oslo, brought the process to standstill and it is bogged down.

I would like to say a few words about the general framework because it's not only us and the Palestinians in the boat. Luckily, fortunately, the window of opportunity is still open. That was the expression of Secretary James Baker immediately after the Gulf War in 1991. I always thought it was not the window of opportunity but rather a tunnel of opportunity. Some of you may remember how the Americans got our Prime Minister Shamir and Yasser Arafat and the rest of the Arab participants into these tunnel negotiations at the Madrid peace conference. In the past we used to say in the Middle East that if you want to

see the light at the end of the tunnel in the Middle East you have to look backwards. From this time on, a situation was created in which there was a glimmer of light, a glimmer of hope at the other end of the tunnel. And all parties, Israelis and Arabs, have reached the conclusion by now that it's easier for them to inch forward in the tunnel, fighting each other of course, rather than trying to turn back and get out.

The reason the window of opportunity is still open is because both Jews and Arabs have reached similar conclusions derived from the two unique wars that we have experienced over the decade of the 1990s. Unprecedented wars for the Middle East and I believe for any other region. The first one was the Gulf War. It was a war in which Israel, for the first time, was on the same side as some of the major Arab powers – Egypt, Syria, Saudi Arabia etc. It was the first time Israel was lobbed with missiles and did not retaliate. Luckily so.

The other war was the *Intifada*, the Palestinian uprising in the territories, which was a very violent affair but mostly unarmed. The Israeli army, our kids in uniform, were pitched against massive demonstrations of civilians and the army was not trained to fight this type of battle and couldn't win it. Luckily the Israelis realised at the time that this was one war that we cannot afford to win.

But out of these two wars of the 1990s, there were similar conclusions drawn both sides of the fence. The Palestinians have realised out of the *Intifada* they cannot drive us out. In the sense of the general Israeli public, we came to the conclusion that we cannot break the willingness, the insistence, the determination of the Palestinians to achieve some sort of self determination. And we accepted it.

But beyond, it was understood, and is understood today by everybody, that another full scale war in the Middle East may very well mean the introduction of non-conventional arms. Everyday we are learning more about what was the Iraqi potential but we are still not at the bottom. Yet everybody understands that a new major war in the Middle East may involve the introduction of a non-conventional component. We were not far from that during the Gulf War. I would remind those of you who remember that war, of the last salvo of Scud missiles sent by Saddam against our nuclear reactor. Of course they missed, but one of the missiles had a warhead made only of concrete. Nothing else. With a certain size, certain shape, and a certain weight. That was a diplomatic message, Saddam style, which was well understood by Prime Minister Shamir at the time and he reacted. We were closer, I would say, to the introduction of non conventional aspects into that war than most people realised at the time or many people realise now. Nobody wants an unconventional war. Not Arabs, not Jews. Everybody is in agreement.

Lesson number two. Everybody understands that we no longer have the luxury in the Middle East of having the wars fought along

front lines. Previously during the 1973 Yom Kippur war or the Lebanon war, even the Six Day War, the army was fighting at the front and the civilian, urban and industrial centres were out of range. That was a typical Middle Eastern war. No more. With the new arsenal of missiles with which each and every country in the region is equipping itself, the next war is a war of devastation of the cities. No more the luxury of having your armoured divisions fighting their war on the front. It's a war of devastation that nobody wants to consider. Therefore, there is lesson number three, shared by both Jews and Arabs which should give us all hope that we will be moving in the right direction. Nobody can afford to win a war anymore in the Middle East. There was never an Israeli party which preached an all out war with the enemy, with the Arabs. For the first time, now you don't have any Arab faction, not even the Islamic fundamentalists, preaching or calling publicly for a war, whether annihilation, destruction, or all out war, against the State of Israel. This is a new element and, in my opinion, the single most important element.

Our strategy is dictated to us by the strategic predicament of the State of Israel. The only front from which the very existence of the State of Israel can be threatened is the eastern front where Jordan is. The Hashemite Kingdom of Jordan. This is the area where Arab armies can mass against us and threaten our soft belly, 40 or 50 kilometres from Jerusalem. Between the Jordan River and Jerusalem. This is our vulnerability. Therefore the great achievement of the peace process, and what was late Prime Minister Rabin's jewel in the crown of his peace making effort, was the agreement with the late King Hussein. It has a clause specifying that Jordan will not allow any hostile troops on its territory. From our point of view we have achieved an effective demilitarisation of Jordan from non Jordanian Arab troops. The four divisions of the Jordanian army are not a threat to Israel. That was the major achievement of the peace process. More important than anything else from our point of view, it created a situation where we have a demilitarised desert to the east between us and the Iraqi threat, Jordan, and 250 kilometres demilitarised effectively, of the Sinai Peninsula between us and the Egyptians ever since the Camp David Accords 1978.

In order to maintain this achievement, this prize, having Jordan as an effective buffer between us and the stronger armies of the Iraqis and the Iranians to the east, it's clear to everybody in Israel that we have to pay in Palestinian territory. Jordan will not be able to maintain this intimate arrangement and intimate alliance with Israel unless there is a satisfaction, even if partial one, to the Palestinians. Our way to do that, to put it very bluntly, the only way we can tie down Arafat's hands and prevent him from driving and seeking more, is by embracing him as

close and as warmly as possible. This is the strategy of every Israeli government since Oslo. Some more successfully than others of course.

The ultimate embrace that Israel will be seeking the following. In order to be as generous as possible to the Palestinians, we need to have not only a series of concessions on our part but also a system of containment. To make sure that the Palestinian State does not become a bridgehead for further attacks against us. The way to do it is by combining, by going back to the geography and demography of historic Palestine, the greater land of Israel, greater Palestine, of two banks to the river. That is an arrangement encompassing three independent states, Jordan on one side of the river, the Palestinian State and Israel on the other side of the river. Three independent entities hooked together, combined together under some sort of loose confederal arrangement, mainly on security and some economic issues. When I'm translating the metaphor of the embrace, this is the embrace.

It is the embrace of two countries that have most to fear from Palestinian nationalism and the drive of Palestinians for much more than they are going to get, combined with the Palestinian State into a more stable structure. This is also the only way through which one can assure we make a deal not with a minority of the Palestinians, those who will become citizens of the Palestinian State, but with the majority of the Palestinians including those residing in Jordan, etc. This will make more Palestinians than is currently conceived, direct beneficiaries of the final deal as it emerges between us. Now we have one angle of the triangle which is the Israeli-Palestinian negotiations and agreement. Bogged down, but they are there. We have the other angle of the triangle ready which is the peace treaty between Israel and Jordan. It's there and it's alive and kicking. What is missing is the angle of an understanding, an agreement between Palestine, Mr Arafat, and Jordan. What would be the relations between these two Arab members of the triangular configuration? I believe that in the next two or three years, this is going to become the major focus, at least of the American administration.

I would add one point. A movement like Hamas – Islamic terrorism – in the territories, emerges and thrives in the no man's land of conflict between Jordan and the Palestinians. What you have, without going into the details, is a situation in which Mr Arafat has more leverage over the Royal Palace of Amman in the East Bank. He can always rely on the Palestinian majority there to stir trouble if necessary. The Jordanians do not have, or they feel, they do not have, sufficient leverage over Mr Arafat on the other side of the river. And therefore, they have adopted the Moslem brotherhood with its armed wing Hamas. We have at present a situation which is very typically Middle Eastern. It's also very bizarre. Our best Arab ally, which is Jordan, is also in some

ways the sponsor of our worst enemy – Hamas. And this problem can be addressed only through a triangular configuration.

There are three trade offs that are in order. One is that Israel will have to reach some sort of understanding with the Arab world. Here I refer mainly to Egypt. With Egypt we have now not a cold peace, as some people wanted to believe at the outset, but a cold war. In a cold war you don't have armies shooting at each other. But the nature of the relationship, statements, diplomatic posture and so on, is confrontational.

We have to reach an understanding with Egypt. That Israel is not seeking to compete with Egypt over hegemony or supremacy in the Middle East. We are not seeking to become major players in the region. Not in the Persian Gulf, nor in North Africa. Egyptian leadership is there. But in return we need an Egyptian and an all-Arab understanding, even if tacitly, that Israel will be given a privileged role in the patio. The patio is the Palestinian State. It would be like a patio in the centre of Israel and in the backyard, Jordan. In these two countries we can make a difference. I believe that once we have the deal, an Israeli effort to double and then triple the per capita income of our immediate neighbours, the Palestinians and the Jordanians, is possible. We're talking of eight or nine million people. It's possible. Just to give you an example, the Palestinian economy today is five per cent of the Israeli economy, or less. The Jordanian economy is about seven or eight per cent of the economy of Israel. We could do a lot there once the situation is stabilised. This is one trade off.

The other trade off that is called for is the following. Because the Palestinians are bound not to be extremely happy about the final deal (there is not much we can do about that) how can we make the deal more attractive? How can we insert more incentives for the Palestinians to maintain the deal once it's concluded? My answer, and many other people in Israel would agree, would be to reconsider our position on Jerusalem. Is it worth sticking to our historic traditional position where we maintained that there would be only exclusive Israeli control over the whole of Jerusalem? There can be something in Jerusalem for the Palestinians. There are different Arab neighbourhoods in Jerusalem and you could do a lot of carving up there if you wanted to do that. But in return, Israel needs Palestinian acceptance to maintain its troops at least for a period along the Jordan River separating the Hashemite Kingdom of Jordan from the Palestinian State.

We cannot afford to watch a Palestinian State destabilising Jordan and then overthrowing the present regime in Jordan. The horror scenario, from our point of view, is a Palestinian State stretching all the way from Jerusalem to the Iraqi border. And Arafat is the only Arab leader, by the way, who has maintained very good cordial contacts with Saddam ever since the Gulf War. Every week he has a minister from his

own Palestinian cabinet going to see Saddam and he is maintaining his position. On the metaphorical stock exchange. He is maintaining his conduct and his investment in Saddam. That's something that no Israeli government can allow. We need to protect Jordan. At least initially. And the price for our stay along the Jordan River may very well be in Jerusalem. It's a very tough trade off both for Israeli politicians and for Arab politicians.

The last trade off is the following. If Yasser Arafat agrees to join with us and with the Jordanians in a triangular arrangement, while he gets his independence, we can prove to be more generous, more forthcoming, both in terms of ceding territory in the West Bank to the Palestinian State and both in terms of fewer restrictions to be imposed on the exercise of sovereignty by a Palestinian State. That's the final trade off which is called for.



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WRITING *JENNIE*

GEORGE**Brad Norington**

Jennie George has a sense of humour – but she's not renowned for joke telling. She did manage to raise a laugh at the launch of my biography on her life last November, though, when she made a point about how close a biographer should get to his subject. According to George, I got the colour of her eyes wrong. Apart from anything else, it offered proof that I didn't come as close to my subject as did another biographer and an ACTU president.

How close a biographer gets to the subject is, of course, one of the central tensions in life writing. I face the issue of closeness to my subjects everyday in my day job as a journalist for the *Sydney Morning Herald* – but there is usually a lesser involvement between journalists and their contacts for news reporting and commentary. It is not life writing as such, and there is a different kind of public interest test involved when it comes to determining what is fair game in revealing things about individuals. Newspaper writing is also much more transitory in nature – the old adage applies that today's newspaper is tomorrow's fish-and-chip wrapping (there must be a cyberspace equivalent as the newsprint media contemplates a future on the internet).

Readers expect much more from a biography. The writer Harold Nicolson, drawing on the *Oxford English Dictionary* definition, said that a biography must be "history", in the sense that it must be accurate and depict a person in relation to his or her times. It must describe an "individual", with all the gradations of human character, and not merely present a type of virtue or vice. And it must be composed as "a branch of literature" with an adequate feeling for style.

Setting aside the trashy kinds of biographies that seek to titillate or make wild claims, people expect to walk away from a serious biography knowing *more* about the subject – and ideally feeling that they *know* the subject. Even better if they walk away feeling that they *like* the individual more.

Immediately there is a risk to the subject. A biography is necessarily invasive, and there may be things that the subject wants to keep in

the closet. Last year the French film star Alain Delon set an extraordinary legal precedent by succeeding in having his biography banned even before it was written. Alerted to an 18-page synopsis, Delon's lawyers complained of its "filthy" nature and "evidence of a biography whose sole intention is injurious". In a classic understatement, the lawyer for thwarted biographer Bernard Violet said: "It seems he's rather worried by some of the things that could come out."

The playwright Tom Stoppard recently explained how he had taken a different approach when asked to co-operate with a literary biographer he said kept turning up like a character in a Christopher Isherwood novel. "He's called Ira somebody or other. I'm sure he is an absolutely blameless man, but I've told him he's on his own. As far as I'm aware, I'm not hiding anything, but I find it all invasive and I'd rather it didn't happen – or didn't happen until much later. He's written me a rather plaintive letter, saying 'will you at least read the typescript to correct any factual errors', and I've replied 'no, I want it to be as inaccurate as possible'."

Of course, the least painful biography to the subject is one that is "authorised", where he or she exerts control over what is written so that only a certain, usually sanitised version of events is told, one that is of little benefit to the reader wanting an authentic portrait. The writer Sheridan Morley, who has written 12 biographies and made Faustian bargains with some of his subjects, remarked recently in London's *Observer* that he had promised himself after his experience with Noel Coward that he would "only do biographies of people – once they had died."

Which brings me back to the very alive Jennie George. In asking me to speak to you, Gerard gave me a rather broad title – "Writing Jennie George". I have taken this to mean that he wants me to discuss the process of doing her biography, taking into account the kind of issues I've just raised so far as what I encountered in my dealings with George.

I had a premonition that I would receive a telephone call from a publisher in December 1996. It took about five days to come – but it did happen. *The Good Weekend* magazine, which accompanies the *Sydney Morning Herald* and *Age* newspapers on Saturdays, had just run as its cover story a profile of Jennie George that I had written.

Allen & Unwin publisher John Iremonger and senior editor Rebecca Kaiser appreciated that all the ingredients were there for a good biography. Indeed there were themes clamouring to be explored further, of which the 5,000 word magazine article was just a taste. This was the story of a complex person – strong-willed yet vulnerable, driven by ambition yet often emotionally tormented by bouts of self doubt – who had risen to be the first woman to lead the country's trade union movement as president of the Australian Council of Trade Unions

(ACTU). She did so against the odds, in a world of unyielding male traditions and outright chauvinism. She had an interesting Russian migrant background and family history. She had survived hardship from her upbringing in refugee camps and hostels. She had suffered early tragedy in her marriage. Her youthful radicalism was fired by her participation in the Vietnam War protests and discovery of feminism – but she had mellowed as she climbed the career ladder and learned the way of the world. Here was a very human story, set against the political background of our times. It oozed with an uplifting sense of personal triumph against adversity.

From the start, I was fortunate to gain the co-operation of Jennie George for extended interviews and access to papers. She was to be neither my Alain Delon nor my Tom Stoppard. George expressed some nervousness about the project but appeared, so I thought, to have an inkling of what it might all entail after having co-operated with me for the magazine profile. It was fortunate for both of us that we knew each other. As a *Herald* journalist, I had observed George's career since the mid-1980s when she led the NSW Teachers Federation and was the only woman member of the ACTU's executive. I had some knowledge of her personality and temperament. And despite the fact that there was much research to do, I had a wealth of resources from which to draw. I knew many of the important people in her life and had accumulated files over time that could never be of use except for a project of such magnitude. From George's point of view, she had the advantage of knowing my work first hand and knew me well enough to make judgments about my character and whether it was right for her to talk to me. She could safely conclude that I bore no ill will towards her and would not do a proverbial hatchet job. However, she would have had to reconcile that in agreeing to co-operate with me for an unauthorised biography (where she had no right of veto over what was written) the words would not necessarily land on the page as she would like.

I think that, intellectually, George understood it was important that the biography had to be unauthorised, for the sake of her credibility as well as mine. "I hope you're going to be critical," she said at one point during our interview sessions. To me that remark demonstrated she recognised that a hagiography would be next to worthless: that a book which proclaimed her strengths but overlooked any blemishes or outright failures in her life would not be taken seriously.

I, certainly, was not prepared to write a biography in which there were any pre-conditions. Indeed I was grateful – my own admiration for Jennie George rose – when she sought to impose none. There was no Faustian bargain that either of us could later regret. She did not even request to see the manuscript in advance. It was not until much later, when she asked a few times, but not with much vigour, if I was going to let her see it before publication.

Thankfully Jennie George also introduced me to her mother – the closest person in her life and most crucial in her story. She also suggested the names of some people I should speak to.

When I said earlier that George appeared to have an inkling of what a biography of her life entailed, it's important to add emphasis to that observation. Indeed she appeared to. In practice it was a difference matter: There was a polarity that emerged between us and I believe, in Jennie George's own mind, as she became confused about the merits of it all.

We continued an amicable relationship as biographer and subject throughout the research and writing period but a significant number of tensions and contradictions emerged, many of them inescapable but others linked particularly to George's personality. She wanted the biography but feared it.

Like many biography subjects, I think it was flattering initially to Jennie George that anyone would want to publish a biography on her life. "Do you think my life is interesting enough for a biography?" she asked me a couple of times during our interviews for the book, prompting her to provide me with another colourful anecdote to help make it so.

At times she was swept up by the excitement of the whole idea. The apparent modesty of someone trying to think of a few more interesting anecdotes to make her story sing gave way to the full flourish of ego. At the odd public dinner at which I happened to be also present, during my interview and research period, George introduced me, proudly, as "my official biographer". I was never her official biographer, of course, but I smiled and said nothing in front of the people concerned so as not to embarrass her. Interestingly, she changed her tune dramatically later.

In the lead-up to writing, I conducted a series of extended interviews with George in which I divided off her life into separate periods. For example, one covered what she knew of her birth in an Italian displaced persons camp in 1947 and what she could recollect of her early life in hostels after migrating to Australia with her parents in 1950, and her primary school days. Another dealt with her rebellious teens, another with her political beginnings and meeting her future husband, and so on. These were not open-ended interviews – they were fitted around what time Jennie George had available – although one interview in particular turned into a long, emotional day given the nature of what I wanted to discuss. I also explained, and she understood, that I would have follow-up questions. And indeed we had many things to clear up afterwards, some satisfactorily, some not.

On the one hand it seemed to me that George appreciated that a schedule of interviews was a requirement if her co-operation was a given and I was able to gain the information I needed in order to trace her life thoroughly from its beginnings to the present. She did co-oper-

ate willingly – I want to stress that. But I also sensed, as time progressed, impatience on her part. As we ran through her life, she began inquiring how many interviews were left. I began to feel that from her standpoint, despite her enthusiasm, it was becoming a chore, and that surely if I had the outline, the rest would simply fall into place without the need for detail.

Indeed, I found detail *was* a problem for Jennie George. My questions to her revealed that she was vague about slabs of her life. Part of it was understandable, such as childhood memories. But it struck me that she was a person who lived very much in the present and did not spend periods in reflection. We all rationalise certain things about our past. We want to put our spin on them – it's only human. George did that too – but she also seemed to shut out large chunks of her past, most of it I believe not intentionally, although as I would discover later, some of her memory blanks and denials *were* intentional. Even polite prodding or questions that seized on certain current events in time to trigger her memory often failed to work.

What might seem an important period in her life – for example, her involvement in anti-Vietnam War protests – was a blur apart from a few key memories already mined for newspaper profiles. She could remember, in a romanticised way, running out in front of Lyndon Johnson's motorcade in 1966 but could not recall that in the following year she attended the big demonstration against South Vietnam's Prime Minister Ky – surely the other big event in a diehard Vietnam War protester's diary. The whole 1970s seemed to be a blank so far as her political activities and beliefs. She recalled marching in the International Year of Women in 1975 but could not recall the memory (provided to me by someone else) that she attended a demonstration later that year in Sydney's Martin Place on the day of Gough Whitlam's sacking.

There were even major gaps in George's memory as NSW Teachers' Federation president in her much-publicised battle over the State's education agenda with NSW minister Terry Metherell in 1988. Clearly Metherell got under her skin and she would often talk about "when I'd meet Metherell". In fact, as I was told by others, Metherell included, she only had one ministerial meeting with the man. For my research on that period, and others, I had to rely almost totally on other people and documentary material to place her in those times.

It surprised me that George's memory was not better – although I came to accept that my conclusion about her living for the present was very much the way her mind worked. I had to accept that it was futile to become frustrated, when my quest for factual accuracy was hard going, and just press on.

The other thing that surprised me, so far as George's memory, was that – given her beginnings as a history teacher and her comment to me that she encouraged students to think about the big questions of

history – why did crucial points in her own history seem to elude her? One of her strong points, I was told repeatedly, was her ability to master a brief, something she seemed unable to do when it came to her own case, except in a broad, loose sense.

Apart from living for the present, I concluded that the kind of detail I needed for a biography was probably something George as subject had not thought through properly. Her past dealings with the media provided a key. She was accustomed to print media profiles, which, for space reasons, lack of time or the laziness of journalists had tended to skim over many facets of her life.

Now her life was under the most intense scrutiny she had ever experienced. And what's more, I was coming back to her with new information about things I had discovered in my job as biographer by talking to people who knew her, many of whom were not from an inner circle and not so intent, as I also discovered, on protecting her image. It was at this time that her nervousness began to increase.

I remember clearly the night I first gave Jennie George a copy of the manuscript last October, about a month before publication. As we sat at the dining table at her Manly flat, she flicked through the thick wad of pages, pausing at times, reading whatever leapt out on this first run through. It was daunting for her and I knew it: her life told by somebody else. But what stood out most for me was her surprise, indeed amazement. She shook her head. "There's so much detail here Brad." It occurred to me then, more clearly than before, that she had not appreciated the task at hand. Not that she had to – in that the job was mine. But it occurred to me that she had not appreciated until confronted with the sheer enormity and attempted depth of the work why it was important to get the detail right.

As the days passed the list of criticisms from Jennie George grew. The book was going to press so there was no opportunity to change it – and it was just as well. I knew what George was like. Before I began researching the biography I knew that she had a thin skin – the thinnest hide of anyone I have met in public life in fact. At times it had amazed me that George had survived as long as she had in the public spotlight, such was her hypersensitivity to criticism. Over the years she had nit-picked over the mildest of journalistic writings that would not bother your average politician. She had been lucky, I thought, to have never endured any serious, public "blowtorch to the belly", as Neville Wran might say.

It was understandably an emotional time for George now. But I had past experience to rely upon. She always mulled over things. If she were given a choice at this point, I had good reason to believe that George's ever-growing list of complaints, combined with a good dose of her bullying my publisher and I, would have amounted to an attempt to have me churn out a de facto authorised life story.

As the book's release date loomed, even I wondered at times who was in charge. I thought it was my book, unauthorised, and George was supposedly disowning it. Yet here she was, now virtually telling me who *was* and *was not* suitable to launch the book. Keating was good – but he was not available. Despite his impeccable lineage as a former Labor prime minister and the ACTU's most famous president, George rejected Hawke because she thought he represented the past. And she rejected Beazley because she didn't know him. She even rang Carmen Lawrence in Perth to sound her out – without my knowledge – asking if Lawrence would be interested. In the end, I did agree on Lawrence. She was a good choice despite controversy over her pending trial. She knew George, she had actually read the biography unlike some book launchers and spoke eloquently and thoughtfully.

Still George fumed behind the scenes. Such are the risks, as Sheridan Morley knows, of being a biographer while the subject is still alive. George is often driven by passion – but she knows how to play politics. Unknown to me at the time, she had given a copy of my manuscript before it was published to Michael Easson, a former union official who mistakenly believed I had once wronged him. Now, with George's agreement, Easson proceeded to read and review the unpublished manuscript. He exacted his revenge against me by going out of his way to shop around to newspapers a scathing review – without declaring his objectivity in the matter. My own newspaper had commissioned its own reviewer and turned Easson down. So did the *Australian*. But the *Australian Financial Review* did publish the sour-tasting fruit of his labour.

On the night before the book's launch, Jennie George was so unhappy with me that she attacked me bitterly on the telephone. She called me dishonest, unethical and the lowest of the low. Invective doesn't come much stronger, yet hers, funnily enough, was about two baseless charges that had nothing to do with central matters raised in the book, or later raised by critics. Rather her complaint related to one photograph borrowed, with permission, from her mother's photo album, and an innocuous reference in the book to her mother's admiration for Pauline Hanson. She also wanted a series of dates changed – though she might have considered how several of them, including her own wedding anniversary, were wrong when she was the source.

In the end I attributed her response, in part, to nerves, and also, in part, to peer review, as the self-proclaimed "Sisterhood" told her what was right and wrong with the book. Already a group of Labor Left women had decided that George had said too much for her own good and exerted subtle pressure for a toned down version, motivated by a misplaced desire to protect George as though she were some kind of sacred property who cannot be criticised.

On the day of the book launch George was gracious in public, as I was. I was glad she agreed to speak. George did add an entirely new concept to the mix, though. It was a concern she had never shared with me before. Whereas previously she was happy to parade me as her "official biographer" she now pandered to fellow Sisters at the launch with her comment that the biography was a book about a woman, written by a man, interpreted through male eyes. I wasn't sure what she was trying to say. I thought I had written the book sensitive to her gender. Was she now saying biographies about women should only be written *by* women? Was I born the wrong sex? It never seemed to be a problem before.

My reference points, according to George, were male apparently. The facts are that for most of her history rising through the ranks of the ACTU, George was working in a male domain. She was in situations where she was the sole woman on board, doing the hard symbolic work for women, breaking through the glass ceiling of the union hierarchy.

George also lamented in her launch speech that "in some places I began to wonder whether the book was really about me or Bill [Kelty]". It's a valid question, and I was conscious of it at the time of writing, that a biography of George provided the opportunity to write a mini-biography of Kelty as well.

However, given his importance in George's rise to the top and his pivotal role as the real force behind the trade union movement for all the time George was engaged in union politics at a national level, it is entirely valid that Kelty should receive contextual prominence in the biography. Despite much criticism he has suffered in recent times, Kelty was the brains behind Labor's Accord with the unions (which George initially rejected). He was the man responsible for restructuring the union movement, including giving women a greater say. And it was Kelty who positioned George and then anointed her as the next ACTU president when Martin Ferguson quit. I suspect that one reason for George's lament about Kelty's prominence in her biography was egotistical: she feared that the space given to Kelty downgraded her own significance.

All went quiet over Christmas after the biography's release. As Carmen Lawrence predicted, George's antagonism receded. George admitted it was a good book. Readers wanted her to sign copies. People told her they liked the biography and that she emerged from it a greater, not lesser person. The pattern seemed to follow, on a grand scale, what occurred after the original magazine profile that provided the inspiration for the biography. That is, she was rattled at first but changed her mind when the general reaction was positive.

One of the issues I found would not go away when I was originally researching the book was the question of Jennie George's past membership of the Communist Party. For the hardcover first edition I had

left the issue unresolved, even in the face of the numerous accounts of witnesses who attested that George was a member along with them. Even senior members of the party, such as Jack Munday, to whom George had been close, would attest that she had been in the party. Personally I had little doubt but I omitted it in the absence of documentary evidence, given the firm, repeated strenuous denials of George herself.

During research for the first edition, a growing number of witnesses who attested to George's communist past had caused me to persist in asking her about the subject. George grew impatient ("It's so long ago – is this important?) and eventually became irritated ("Are you calling me a liar? Are you challenging my integrity?"). She stood by her stock explanation over the years that she had been a member of the Eureka Youth League – but not the party. It was a convenient distinction. The Eureka Youth League was the youth organisation of the Communist Party in the 1960s but it was also one of the rallying points for Vietnam War protests. Admitting only to being a member of the league put George in a similar category to many other university activists who came through its ranks but declined to make the major commitment of joining the party.

In February this year, I was completing revisions for the paperback reprint of my biography for release in April. I corrected any factual errors and took into account a list of concerns that had been raised by George. I also included a few interesting tidbits I found from combing George's early ASIO file, released to me after publication of the first edition and only for the years 1966 and 1967.

The crucial revision, however, was based on other information that came into my possession around this time that was not available to me earlier. I confirmed, unequivocally, from Communist Party records now kept under restricted access at the Mitchell Library in Sydney, that Jennie George had indeed been a party member.

And she was no mere party foot soldier. The records confirm that George was elected to the Sydney District Committee of the CPA in 1972 when Judy Munday was its secretary. She was also elected a delegate to the National Congress of the CPA and stood but failed to gain a place in the ballot for the party's National Committee. Only card-carrying members of the CPA could stand for these positions.

Was the issue important? Of course it was. Being known as a former communist is no longer controversial. But proof that George was an office-bearer in the Communist Party was important to the biography as a historically accurate account of her life. It was a serious omission from the first edition – but I can assure you that is it in the second.

Uncovering George's CPA membership finally made sense of why, in attempting to trace George's political and intellectual development in the 1970s, I had encountered such a large grey area when it

came to eliciting what she did and what were her beliefs from that period. All along, George, and a close circle of her supporters, had kept their recollections of her past political associations deliberately vague. They had lied specifically about her party membership. At least 10 people lied to me. Time and again, to my specific question, "How long was Jennie George in the party?" the invariable answer from former party members close to George was, "I don't believe she was."

So where did this leave me as a biographer? I was high and dry as regards accuracy but it showed the strong loyalty Jennie George engendered from those close to her. In hindsight, I also came to appreciate more fully that while George's initial agreement to cooperate with me was well meaning, she, as subject, had gained a strong position to try to exercise control by manipulating a certain version of history. Until I had hard evidence to the contrary, I had to give her the benefit of the doubt when she expressed "the facts" so forthrightly or blurred them with a vague gloss.

Personally speaking, George's cover-up about her CPA past meant I had wasted much of my time during biography research with a supposedly co-operative subject, groping in the dark for the light switch that could illuminate George's political background.

The chief question was why George should want to deny this most important part of her political history. I could now correct the facts for the reprinted book but my job as a biographer was to delve further, to investigate the reasons behind George's desperate attempts to hide her political past. If I could elicit these reasons, there were more questions to be answered. When did she join the party? How long was her involvement? Did she regularly turn up to meetings? How else, if at all, did she work for the party? Why was she still in the party in 1972 when many of her generation had quit in disgust after the Soviet invasion of Czechoslovakia? Was she motivated to stay in the party because of its subsequent split with the Soviet Union? Did she ever formally resign? If not, when did she cease attending meetings? When did she cease paying membership dues? Why did she join in the first place? Was it the influence of her communist husband, the late Paddy George? Did her Russian heritage play a role? What were her ideals then? How did they change? How much of the party's platform, including some form of revolution aimed at dispossessing the ruling class and imposing socialism, did George agree with? Why did she seek elected positions in the party? Did she want her CPA membership to remain hidden because she believed public knowledge of it would be detrimental to her rise up the ladder of the mainstream union movement? Was her communism the reason she left it until 1992 to join the ALP, around the time the Communist Party was formally dissolved? These are the legitimate questions of a biographer. They are worth at least another

chapter so far as attempting to trace and understand Jennie George's political evolution to the present day.

I put the facts of George's CPA membership to her at the time I made revisions and she did not deny them – but she said she had nothing to add to the record. The only hint she gave to me about her reason for having perpetuated the lie was a rather cryptic comment when I asked if her Russian mother's staunchly anti-Soviet views had anything to do with it. George replied: "Whatever connection I had with the party was in the context that I came from a family whose feelings I had some respect for."

I would have liked more – but it was not forthcoming. I remain disappointed that George misled me. I'm also surprised. Jennie George is usually more careful – did she think there was no evidence of her CPA membership or that she would not be caught out?

So why did George deny her communist past? I've speculated that she decided early on, based perhaps on advice from party mentors such as Mavis Robertson, that it would be better for her career to keep her membership under wraps. And that once she lied she had to stick to it, even as ACTU president. George rejected this when I put it to her. She said she would be judged on her performance "not what I did 30 years ago". Unfortunately, this remark of hers sidesteps the issue: I was not being judgmental at all, merely attempting to elicit her reasons for denying the facts. Still another possible reason is that George did not want to be denied access to the United States, which has barred entry to avowed communists over the years, including at least one of George's friends.

I accept that the "family" reason to which George alluded is an important one for her. George's parents escaped the Soviet Union under Stalin and detested communism. It was loathsome for her surviving mother to think that her daughter had embraced the CPA and plausible that George didn't want to tell her family the whole truth. And yet, so much of her political connections were on show. As the biography details, her marriage to communist Paddy George and deep involvement in communist circles had already caused family ructions.

In the end, I believe that career reasons figured most in George's thinking about the issue. Admitting openly to past CPA membership now is no longer a social stigma. But ACTU insiders have confided to me that doing so in 1983 (when George first joined the ACTU's executive) probably would have stunted her progress in the organisation. Later, as president of the NSW Teachers' Federation, George had to reach out to a wide section of the community, including those antagonistic to someone with a communist past.

As I have mentioned, I interviewed George in February this year about the facts of her party membership to gain her response for the revised edition of the biography. It involved two telephone calls and an

exchange of faxes – so she was left in no doubt about what I intended to write to correct the record and was given plenty of time to respond. Out of courtesy, I also telephoned her the day before an article I wrote for the *Herald* in April was published, which revealed that her earlier denial of CPA membership was false.

I haven't heard from George since – but she has contacted my publisher and the editor of the *Herald*, telling both, among other things, that she had sought legal advice. I'm mystified why she would need any legal advice. I'm told she was angry and wanted to know how I gained access to Communist Party documentation. She also said – with no ambiguity this time – that her mother was the real reason behind her lie and dismissed other reasons I mentioned. I am sorry that George was not more forthcoming to me as her biographer. Of the two of us, I would have thought I am the one entitled to take umbrage after having been repeatedly misled. I'm not angry but do have a lingering disappointment.

In conclusion, would I have been better off without the level of cooperation that Jennie George did give? What if she had adopted Stoppard's approach, or that of Germaine Greer, who refused to cooperate with biographer Christine Wallace and directed her friends to do the same? My book would have been poorer for it. Certainly without George's cooperation, and particularly without that of her mother, the early parts of the book would have been left seriously wanting. There are some historical records available but scant other information about George's own refugee story. George's testimony-style quotes are also a most valuable part of the book.

Should the biography have been written after her career had ended or after she had died? There are various schools of thought on this. Her story was worth telling, I believe, and it is as much a story about our times as it is about her life. To wait until later could have been too late, as the level of public interest in unions continues to abate. Indeed, George's presidency, which started off reasonably well, has gone quiet lately. She is rarely in the public eye. The ACTU's influence has waned considerably.

Like many biographies, this one stands as a life in progress. Yet I believe that – while George has expressed the ambition to cap her career by securing a seat in the NSW Parliament – she has passed her peak in public life. Her life story was ready for telling. And there was value in a biography released while George was in office, at the height of her career, while sources and events were fresh – and at least some people's memories were still working.

Despite having closed the door to me on an important part of her political life, I believe that Jennie George emerges from my biography on her life a greater, not lesser person. She was an interesting subject. I wish her well.



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- 1. Gilliam Marks, Roma Cryst
- 2. Nigel Rein, Babetta Smith
- 3. Graham Maher
- 4. Barry Aldrich, Phil Singleton
- 5. Geoff Fowlstone
- 6. Philip Bambagiotti, Jane Reynolds
- 7. Jan Davis

- 8. John Graham and friend
- 9. Andrew Robertson, Max Sandow
- 10. Peter Wilson, Alec Gonski
- 11. Robert Lee
- 12. Anabel Westwood

Photographer: David Karonidis



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CENSORSHIP –

LOLITA AND MODERN SOCIETY

Alan Cadman

This is an interesting topic and it's not the sort of topic that I normally get into. However, I did make some comments about the film *Lolita*. My interest in the implications of censorship and the application of decisions relating to media arose from that.

I believe that, at the moment, Australia is in the process of responding to changes made to the Classifications Act in 1995. In 1995 the Classifications Act removed some words from the Customs Act and one other act. The words on censorship, "it is likely to be injurious to morality," were removed. Also taken out were the words "or if it depicts surely any matter, the exhibition of which is undesirable in the public interest". Now if you're used to public administration, some of those words carry a great deal of weight. If you're not, the "public interest" or "injurious to morality" may be words you use in your conversation or to describe particular events. But in administrative law they have got particular applications. These words give guidelines as to how decisions are made and what the application of rules, some of which have been tested extensively in law, are to a particular issue.

These words were replaced by other words in the act and we're still at the point of finding out the full implication of those words despite that, with a passage of three years, not all of the borderline cases where we can apply the full meaning of the words have come to light.

In regard to censorship I agree with Robert Manne that it is very easy in society today to mistake the censorship we are discussing for a restriction, a political restriction, of speech. We are not discussing the political restriction of speech. It is about restriction of pornography.

To take the classical liberal point of view, we need to start with a friend of mine, J S Mill. His basic criteria when applying rules to censorship is the harm test. Something which is done must not provide, or imply or produce, harm to others. Here is the quotation: "The sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their members is self protection. The only purpose for which power can be rightly exercised over any member of the civilised community against his will, is to prevent

harm to others." There is the harm factor. His own good, either physical or moral, is not a sufficient warrant. What Mill is saying is that we cannot interfere in another person's way of life simply for that person's own good. We can only interfere if that person's actions are likely to harm others.

Mill went on to say, in his exposition of censorship, that his doctrine, this doctrine, was meant to apply only to human beings in the maturity of their faculties. So he does not mean these laws to apply to children and children are specifically excluded. The "maturity of their faculties" conjures up a few ideas about how the measurement of that process could be undertaken.

Lord Devlin, on the other hand, considered there must be a moral factor. Lord Devlin would be seen as the conservative voice of censorship. In his view there must be a moral factor and the legislature should bear in mind the following things. The three points that Lord Devlin announced were (1) there must be toleration of the maximum individual freedom that is consistent with the integrity of society, (2) in any new matter of morals, the law should be slow to act and (3) as far as possible privacy should be respected.

To these two strains of thought, one pretty liberal and one conservative, feminism has added a new perspective. Feminists have said that harm may be perceived. Not actually executed. Harm may be perceived as well as being direct. In more general terms harm may be a form of social injury. That has tended to be the feminists' argument in the censorship debate. Harm being perceived as some form of social injury.

Research has been difficult to interpret because there has been lots of trials about whether pornography, for instance, is damaging to individuals - whether it does have people change their behaviour, their conduct. There have been trials and longitudinal studies over the years, the results of which are hard to interpret although it seems to me the Senate inquiry into violence in the electronic media (1997 Report) and the Joint Select Committee on video material in 1998, produced some figures which showed why people expressed concern.

Now the groups which have expressed concern about pornography or about violence have been the elderly (in an extensive survey 33 per cent of elderly people were concerned about violence), women (34 per cent), parents (31 per cent) and people with strong religious convictions (42 per cent). So the first three groups, the elderly, women and parents, either have a sense of powerlessness in society or are worried about ramifications of increased crime or personal attack from people responding to uncensored material. The social policy of the time, I believe, will also influence how we respond to matters of censorship. Taking it all into account it could mean the factors are these: Does it do harm? Does it have a moral factor? Has it a factor which goes beyond the moral factor and is a social injury incurred? What are the levels of concern in our community and which groups are concerned

about the increase in violence or pornography and its impact? And what is the political reaction?

Having read the book *Lolita* and having also attended the screening of the film, I was appalled by the book. It appears that Humbert, the main character in the book, is firstly placing himself in a position of adulation of a young girl, a twelve year old "nymphet" whom he calls Lo or Lolita. His position is that if only she were not quite like she was. If she were not quite so tantalising or mischievous, she would not be so attractive. It is almost as if he is not really to blame. Lolita alone, appears to him to be responsible for the way she behaves and conducts herself, and her appearance. And the film faithfully carries that out, although the film maker, in order to bring the audience with Humbert, depicts the girl at age fourteen.

Now even John Stuart Mill, who was a most liberal person in regard to censorship, says those who have not reached the maturity of their faculties, must be protected from this process. On that count, the John Stuart Mill count, *Lolita* should have been banned. To portray young women as objects to be manipulated, to be threatened in some instances, to be played with, to be spied upon and to, in fact, be taken to great lengths for plots and secrecy, is not a depiction that I want to see continued in our society. Anybody convinced this is appropriate conduct, would perpetuate extreme damage to society.

The actor who played Humbert, Jeremy Irons, says that he and the director worked to make the paedophile into "someone audiences would sometimes dislike, sometimes laugh at and sometimes feel for". I find it deplorable, that somebody preying on girls of that age should be a subject we would feel some empathy with or support for. Irons talks about the young woman selected to play the role of Lolita in the film, Dominique Swain, as a "fawn-like creature who is not pretty but because of her youth and lack of self consciousness, was terribly attractive and also infuriating - all the things Lolita should be". They rejected one girl to play the role (who came second in the selection) because her screen reactions were as those of a mini adult. So the emphasis was meant to be a young girl in like circumstances.

My opinion this film - not other films, I have not seen - is a borderline case and sets the standard. I would just like to quote Ted Bundy, a notorious murderer, on pornography. In the final stages of his life, before execution in the United States, he said, "It happened at all stages, gradually. It didn't necessarily happen overnight. Once you become addicted to it, you keep looking for more potent, more explicit, more graphic kinds of material. You reach a point where pornography only goes so far. You reach that jumping off point where you begin to wonder if maybe actually doing it would give you that which is beyond just reading it or looking at it."

CENSORSHIP -

LOLITA AND MODERN SOCIETY

Tanya Plibersek

I feel a little resentful tonight. I feel resentful, because last night I paid \$8 to see one of the worst films I have ever seen in my life. The only film which approaches it for sheer awfulness was *Feeling Minnesota*, which was so awful I had to see another film straight away afterwards to take the awful taste away.

Last night I saw *Lolita*, because unlike many of my colleagues I thought I should see it before debating whether it should be banned. I am also resentful, because once again an opportunity has been missed to have a real debate about child protection, and instead we are having the same debate about censorship we had decades ago. And all the while we are providing free publicity for a film which in a sane world would sink without a trace and make director Adrian Lyne the unbankable has-been he deserves to be.

Child protection

The debate about *Lolita* has actually detracted from the serious attempts being made to address the issue of child abuse in much the same way as Franca Arena's abuse of parliamentary privilege and her hysterical, homophobic outbursts undermined the issue of child protection. As Jocelyn Scutt said:

If only the politicians would pay real attention to the need for funding, to the way courts address the real issue of child sexual abuse, to real children who are being sexually abused within the home and to real men, including biological fathers, who are engaging in sexual abuse of children. Then I would have more confidence in what they do. No person who has Christian or moral values can actually be concentrating on what's in a film and not concentrate with even greater fervor and concern on what's happening to real children.

As a community we should be having the debate about how to deal with child abuse, we should be teaching children protective behaviours, we should be resourcing child protection agencies and making the court process bearable for victims. We should be prosecuting

offenders and punishing them – surely this sends a stronger message than whether this film is banned or not.

Lolita

I would have preferred to boycott *Lolita*.

I agree with Trish Draper to the extent that Hollywood is all about money. This fuss makes *Lolita* successful in a way I am sure it wouldn't have been otherwise. This fuss may be the cause of more such films being made – not fewer.

I would have chosen not to see the film because I knew the story line and I knew the director's previous work – those confections of misogyny, poor pop psychology and masochism *91/2 weeks*, *Indecent Proposal* and *Fatal Attraction*. I would have assumed that I would find the film either offensive or dull – in fact it is both.

I suspect most people in the audience also had made an informed choice. Most would know of the Nabokov's 1955 novel and Kubrick's 1962 film. (Should we ban these also?) Viewers won't be surprised by the storyline.

That's preferable to the shock of scenes such as the one in the remake of *Cape Fear* in which Robert De Niro's character hand-cuffs a woman to the bed and after raping her punches her in the face. Or the rape scene in *Leaving Las Vegas*. People going to see these films probably weren't expecting such gratuitous and explicit portrayal of rape and violence. Maybe sexual abuse doesn't matter to the "moral majority" when it is adult women who are being abused.

Trish Draper fears that people will relate to Humbert Humbert – he seems too normal. She would prefer paedophiles tattooed with warning labels. But as anyone working in the child protection area can tell you, or a cursory examination of the evidence against convicted paedophile Phillip Bell shows, paedophiles are often charming. That is how they win the trust of their victims; that is how they gain positions where they have access to children; that is how they hide their crimes.

Personally I found Humbert vile, self-indulgent, pathetic, deluded... there was certainly nothing attractive about him. There is some attempt to portray him as complex, and show how he justifies his abuse of his step daughter by convincing himself it is love, and telling himself he is not the first. That accords with what we know of some paedophiles.

The portrayal is true to life in another sense: Franca Arena focussed so much on the stranger danger/dirty old man scenario of paedophilia, she drew attention away from the fact that the vast majority of victims of sexual abuse are girls, and the vast majority of perpetrators are a close male relative.

Its critics worry that the film will bestow social approval on paedophilia, yet every reasonable person knows that paedophilia is a crime

which is abhorred by the community. Some paedophiles are able to convince themselves that it is not damaging to their victims, but most go to enormous lengths to hide their crimes. These people do not need social approval to commit their crimes. It is clear that Humbert knows his actions are criminal, and it is clear from the film that Lolita is damaged by them – even destroyed.

Trish Draper's argument that criminal acts should not be portrayed in films is unrealistic – even *Home Alone* wouldn't meet this test. Singling out *Lolita* is absurd, given how many films deal with subjects which are related, or just as bad. The most obvious inconsistency is the lack of attention paid to *Happiness* which also deals with the topic of child sexual abuse and apparently has a Mike Brady type dad abusing young boys: it is showing in many of the same cinemas as *Lolita*.

Censorship

As much as I hated this film, I feel very uncomfortable with the idea of politicians trying to ignore the established procedures of film classification and make judgements about individual films. We have an Office of Film and Literature Classification, and we have a Classification Review Board. After extensive consultation, the OFLC unanimously found that the film did not condone or glorify paedophilia. An appeal against this decision has been unsuccessful. Politicians should not expect to be able to bypass the classification process – let them make their case in the appropriate way.

If the concern of the anti-*Lolita* MPs is one which goes beyond this individual film – if they believe the guidelines are faulty then let them make a public case and win support for tighter classification in an open, consultative way. Let them test public support for wider censorship.

Allowing politicians to censor what they find offensive or confronting sets a dangerous precedent. We are seeing the first stages of this in the Howard Government's negotiations with Senator Harradine about 1900 numbers and, of even greater concern, explicit safe sex material and sex education kits designed for school aged children. There have even been attempts to ban an ad giving information about voluntary euthanasia.

There are politicians who believe that homosexuality is sinful, so explicit safe sex information for gay men should be banned. What about erotica – especially gay and lesbian erotica? Will the next target be abortion information? Should we really ban *Southpark* because it encourages children to swear?

It amazes me that a prime minister who spent much of his first term sending coded approval messages to the racists by defending Pauline Hanson's "free speech" has allowed himself to be dragged into this debate even in a limited way. This government is laissez faire in all its policies but this. As Christopher Pearson said in his *AFR* piece:

(22 March 1999) "The contradictions between [the government's] economic libertarianism and paternalistic attitude on some social and moral issues have seldom been more painfully obvious."

There is a difference between seeing something which is offensive, and condoning what is shown, or copying what has been shown. If we believe watching something on the big screen makes people copy what is shown, we should ban just about every film that is being shown at the moment.

Possibly avoiding the topic of paedophilia altogether is even less healthy for us as a community, when people are just starting to come to terms with it as an issue. Certainly the way child sexual abuse was dealt with in the past was by ignoring it, denying it existed.

Sometimes disturbing images actually encourage us to act. The photo of the child running down the road in Vietnam after the napalm attack on her village is credited with mobilising middle class opposition to the war in Vietnam. The images of Albanian refugees fleeing the Serbian army in Kosovo, and civilians mourning the loss of loved ones in East Timor are powerful images which affect public opinion. Should we ban these?

Should we ban a story like *Crack Annie* by the American writer Ntozake Shange because it deals with a crack-addicted mother giving her daughter to her dealer-boyfriend in exchange for crack? Should we ban the newspaper stories that this scenario is based on because they disturb us?

I believe that there should be some restrictions on what is available to the community. I don't think hate propaganda should be easily available – and some pornography is hate propaganda against women. I don't want to get involved in a detailed debate here tonight about exactly what should be publicly available and what shouldn't be, but probably anything that advocates criminal behaviour, anything that takes a criminal act to make should be restricted. I also believe that pornographic material should be less visible in newsagents. Children should not grow up inured to the commodification of women.

Banning everything which is troublesome is not the solution. Consumers of media must be critical, must be encouraged to develop critical faculties and complain long and loud when things are offensive. The task is to describe why these things are offensive, and challenge the values which support their creation. This also applies to the fashion and advertising industries, which rely on starving pre-adolescent girls to sell their wares. If Trish Draper and others are really concerned about the sexualisation of children, they may care to look at any fashion magazine or catwalk, and ask the ages of the girls featured.

Perhaps these images are more damaging, because the portrayal of girl children as desirable sex objects is rarely questioned. There is no dilemma about whether they are appropriate objects of desire – they are

the norm, and beauty is measured against the ideal they represent. They are unchallenged in much the same way as magazines which portray cosmetic surgery as a necessity (like a good eye cream and a personal trainer) and romance novels which portray women as passive.

Modern society

Australia has the second highest interconnectivity rate in the world, after the US. More people are going on line every day, and we will eventually have a society in which anyone can get anything they want in their lounge room, any time they want. Senator Alston's recent comments about intending to censor the internet are a cynical move to capture Senator Harradine's vote on unrelated issues. Only someone profoundly ignorant of how the internet works could imagine that such a censorship regime would be effective.

In this context we have to start asking ourselves not "what can we do about the supply of degrading and offensive images?" but "what will we do about the demand for them?" That is the real issue which faces us. It's not an issue which can be solved by censorship, but requires a fundamental reordering of the subordinate position of women and children in our society.

That debate, and the debate about child protection have not been well served by this debate about censorship.



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DRUGS - THE

DOCTOR'S DILEMMA

Brendan Nelson MP

In setting the scene for what I'm about to say to you, I'd firstly like to read from one of many letters that I have received from constituents.

Dear Dr Nelson,

Having just read your thoughts and words on a heroin trial in my *Manly Daily*, and not often being a Liberal voter, possibly twice, yet I was most impressed with what I read and thank you for your honesty. In the end we must live with ourselves and this is so often what drug addicts are not able to do. They need our help. Having an adult son who became an addict at the age of 34, possibly not the norm but it happens, who after a couple of years was on a \$200 a day habit, at least that's what he told me, so it could have been more. He came to us in the end, we thought, for help, saying, "I'm sick will you help me go cold turkey again." To be witness to such is not a pretty sight, most harrowing for family and addict alike. I'm 63, his dad is 70. We aren't old people but he's our son. And what to do, to put him in a bath and the tiles got broken and he screamed and it all takes over and we felt so useless and we were. Finally we found a place in the Cross. His brother was hearing all this on his car phone. This place is just pits, they give the addicts a blanket and say there's a bed over there away amongst the other addicts.

My first thoughts each day are of my addict son and my last at night. I so often think will I get the phone call. My sister lost a son two and a half years ago. He was 36. We as a family would have bet our lives on this never happening in our family, especially not this son. Married, two children, very successful in his field, well liked, loved sport, never smoked, still doesn't, but one never knows what's ahead. Private pain can take us down certain paths that we think we can handle. The Swiss trials seem promising. Addicts must be de-programmed. Withdrawing is really the easy part, painful yes and hard to maintain but it's the living with themselves and the underlying reasons for addiction, to live in the shadows with drugs often seems better than facing what they have done, their guilt whilst stoned and out of it.

Sorry for the length of this small part of my family's past couple of years but I have learnt a lot. Possibly made me a much better person - understanding, knowing and knowing not to give advice, a better listener I hope. I really care for those in need. I wish you

every success with this important fight. We all must. Someone has to get it through to the government that we are living in the nineties. Things have changed since the fifties, I know not always for the better, but we must try and make things happen. Not every thing will work but if not given a chance we will never know. I'm sure addiction just won't go away.

I also recently received from the publishers Double Day a book entitled *Saving [Jesse]* which I would recommend to you, written by a woman under the pseudonym of Imogen Clark. It's about the experience they've had with their daughter's heroin addiction. And just to quote from it, she said toward the end of the book:

Jesse experimented with drugs because it was exciting, different and daring to do so. She persisted because it felt so good. Is she better? Not yet. She will never be cured. She will always be an addict. She will always be taking it a day at a time and so will we.

The drug debate is rarely a sane pursuit. All too often it is little more than dialogue with the deaf, who, at either extremes of the debate see little other than simple solutions to what are the most complex issues to face human kind. To the issues are brought conviction, experience, expertise, ignorance, prejudice and fundamentalist intolerance deeply rooted in a desire to apply a code of morality to the lives of others. Less often do we see discussion of drug policy in the light of reflected wisdom informed by reasoned argument.

As Robert Kennedy reminded us shortly before his death in 1968 of the words of the Greek dramatist, Aeschylus: "In our sleep, pain that cannot forget falls drop by drop upon the heart and in our despair, against our will, comes wisdom through the awful grace of God."

"Wisdom" was not a word which sprang to mind when former Liberal Party President and Elders IXL boss, John Elliott said in early March 1999 that drugs are "... an overstated issue. It's bloody important that they (the government) won't be sidetracked by it." He went on to tell his luncheon audience from The Institute of Chartered Accountants that, "Economic policies are the *only* reason you have government. I say that very strongly."

I spent a decade of my medical life servicing some of the poorest suburbs in the country. I am now privileged to represent one of the most affluent in the federal parliament. The one thing they have in common is that each harbour a deep concern for the legacy left for their children. The destiny of this country will be determined not by the economic indices with which we seem so understandably obsessed, but by our values and beliefs, the way we relate to one another and see our place in the world. If all the economic problems of life were solved, all important questions would remain unanswered. Few are more important than drugs.

Drugs are defined by the World Health Organisation (WHO) as "any chemical entity or mixture of entities used for treatment or allevia-

tion of disease, or for non-therapeutic purposes. Psychoactive drugs are those that alter mood, cognition or behaviour."¹ Drug policies are not a recent invention. Around the tenth century Persian writers were warning of dangers in the consumption of opium. China promulgated its first edict against opium in 1729. Western societies first became concerned about the abuses of alcohol in the beginning of the seventeenth century, when public drunkenness was made a criminal offence.²

Australia has a history of drug use and addiction from the time of early European settlement as a penal colony. The first currency was alcohol. The use of proprietary medicines containing opiates, cannabis extract and cocaine was daily ritual for many Australians last century continuing well into this one. Bayer gave birth to heroin as a mainstream pharmaceutical in 1898 for babies' catarrh of which doctors were enthusiastic prescribers. By 1936 Australia had the highest rate of cocaine and heroin dependence in the Western world.

How much has changed? Heroin and cocaine are ubiquitous, more potent and cheaper than ever before. These and other drugs have been embraced by a significant and growing minority of disillusioned, disaffected and demoralised young Australians, more of whom will die from drugs this year than were killed for the entire Vietnam War. In 1996, the conservative US journal *The National Review*, led with an article by the very conservative William F Buckley Jr, entitled "The War on Drugs is Lost". In support of his conclusion he cited the fact that 1.2 million Americans were then imprisoned for drug offences and that a quarter of Afro-Americans are either in prison or on parole for drug use and related crime. The critical question should be whether we want drug policy to reflect the world as we want it to be, or the reality with which we are faced. No less important is the principle. Do we wish to continue policies we know will not succeed but in the belief it is the right thing to do?

If this is a "war" there are few winners but many casualties, the first of which are pitiable users who lose self esteem, personal integrity, financial security, health and, in some cases - life itself. So what do we know?

- The United Nations rates the illicit drug trade as the second largest industry in the world with organised crime earning \$1.83 trillion annually from heroin alone.
- The International Monetary Fund (IMF) calculates that in 1996, \$833 billion or 2 per cent of global GDP was laundered worldwide from the proceeds of drug trafficking.
- Profit in the Australian illicit drug industry was estimated in 1996 at \$2 billion.
- Collins and Lapsley estimated in 1996 that the health and productivity costs of illicit drug use in Australia were \$1.6 billion.

- In 1994 the Criminal Justice Commission estimated that at \$652 million, Queensland's cannabis crop was second in cash value only to sugar.
- 22,724 Australians died from a drug related disease or cause in 1997 – 18,224 from tobacco (80 per cent), 3,668 from alcohol (16 per cent) and 832 from the use of illicit drugs (3.6 per cent).³ Those arguing that strategies to prevent illicit drug use are successful on the basis of these figures should remember that every heroin death takes seven times as many years of human life as does each one from tobacco, given the younger age at time of death.⁴⁵
- The *Australian Illicit Drug Report*, issued by the Australian Bureau of Criminal Intelligence (ABCI), suggests that heroin addiction is responsible for 80 per cent of the legal, judicial, imprisonment and criminal costs of crime in Australia.
- 48 property offences are reported to Australian police authorities every hour. The Australian Institute of Criminology in 1998 blamed 8000 heroin users for 90 per cent of household break-ins. But as other research has found, 70 per cent of drug users were involved in crime before their heroin use, treatment alone is not likely to stop crime.
- Although heroin arrests increased 42.2 per cent last year, twice as many users (7,088) than sellers (3,079) were intercepted.
- The 1998 National Drug Strategy Household Survey for the Australian Institute of Health and Welfare found that 2.7 million Australians, or 18 per cent of the population over the age of 14 have used cannabis in the past 12 months. This has increased from 13 per cent in 1995. For those in younger age groups, 14-19 years, the figure is one third.
- 113,000 adults have used heroin in the past year. Of these, approximately half are addicts and the remainder episodic in their use.
- In the five months from April to September last year, there were 1,311 non fatal overdoses in metropolitan Sydney, The Blue Mountains and Central Coast – almost one an hour.
- In 1979 there was a heroin death every 5 days. Now there is one every 10 hours. That is, every 10 hours a family receives a phone call or a knock on the door to advise them that someone they love or know has died as a result of heroin. Longitudinal studies suggest 2-3 per cent of heroin users die each year.
- 24,657 Australians were in a methadone program as at 30 June 1998. Demand is increasing at around 15 per cent per annum.
- Every hour an injecting drug user contracts hepatitis C from which they run a one in five chance of death after a chronic illness. The 11,000 new cases of hep C acquired by intravenous

drug users last year will have a cumulative health cost of \$4 billion.⁶

- The mean age of heroin use has declined from 26.1 years for those born between 1940 and 1949 to 17.5 years between 1970 and 1979⁷. A younger age of initiation is associated with significantly worse outcomes such as polydrug use, experience of overdose and criminal activity.
- Commonwealth, State and Territory governments raised a total of \$7.78 billion in taxes on alcohol and tobacco in 1996-97 (\$432 per head of population).
- The Commonwealth's *Tough On Drugs* strategy has committed an additional \$510 million over four years to bring to \$290 million the money spent annually by all governments on drug prevention, education, detoxification, treatment, rehabilitation and research. This represents \$16 per head of population or 3.7 per cent the revenues collected from taxing our two most popular drugs.

Until the 1960s, drug dependence was not viewed as a major social problem in Australia. Dependent users whose addiction was therapeutically induced were maintained on heroin, pethidine, morphine and opium. However, an increasingly visible use of drugs like cannabis, heroin and LSD provoked fears of social unrest and moral decay, subsequently driving controls on the non medical use of drugs from poisons legislation to statutes with a criminal justice orientation.

The United Nations Single Convention on narcotic drugs 1961 required parties to "limit exclusively to medical and scientific purposes the manufacture, distribution and use of narcotic drugs". It was ratified in Australia the same year in which we enacted the Narcotic Drugs Act.

In response to escalating drug use and related crime, the National Campaign Against Drug Abuse (NCADA) emerged from the April 1985 special Premiers' conference on drugs. It also gave birth to what would become known as "harm minimisation".

Like multiculturalism, "harm minimisation" has been distorted by its proponents and critics alike. It is neither a gateway to liberalisation of drug attitudes and laws, nor is it a policy that marginalises the importance of policing and enforcement. Harm minimisation represents a three pronged approach to illicit drugs:

- Supply-reduction strategies designed to disrupt the production and supply of drugs.
- Demand reduction including education, prevention and abstinence.
- Initiatives to reduce harm to individuals who will inevitably use drug and the communities within which they live.

Two components of Australia's approach, which find themselves regularly under attack, are needle exchange and methadone maintenance programs.

Needle exchange programs in Australia operate under the National Drug Strategy and the bilateral Public Health Outcomes Funding Agreements (PHOFAs). In 1997-98 some 9.24 million needles and syringes were distributed in NSW last at a cost of \$9 million. In 1997, 50 per cent of users in needle exchange were hepatitis C positive, a decline from 66 per cent in 1996. In Australia, HIV infection among injecting drug users is less than 2 per cent. In contrast, the World Health Organization attributes to unsafe injecting practices 43 per cent of all cases of HIV in Europe; 40 per cent in Edinburgh and Bangkok and 75 per cent in Malaysia, Vietnam, South West China, North East India and Burma.⁸

A 1997 Australian study of the effectiveness of needle-exchange programs, internationally, in preventing HIV infection found that HIV prevalence had decreased by 5.8 per cent in the 29 cities with needle exchange programs, and had increased by 5.9 per cent in the 52 cities without such programs. When Windham, Connecticut, recently closed its needle exchange program, the percentage of users obtaining needles and syringes from unsafe sources increased from 14 to 51 per cent. Worse still, the re-use rates increased from an average 3.5 times to 7.68 times.

The risks of HIV in injecting drug users are not limited only to themselves but also to their sexual partners, and especially their children. New York City has a population approximating that of NSW but it does not have, until recently, a needle exchange program. HIV is a much more common legacy of intravenous drug use in New York City than it is in Australia. By 1997, more than 17,000 cases of HIV had been reported in children living in New York City. In NSW there had only been 42. As the founder of the first US needle-exchange program, David Purchase said, "We can't stop them being silly but we can stop them being dead."

Methadone was first used as an orally administered drug-substitution treatment for heroin addiction in the 1960s. Despite national guidelines for its use, patterns of prescribing and provision vary both within and across jurisdictions. In 1998, the Australian National Council on drugs endorsed methadone as a "valuable and legitimate drug substitution therapy and confirmed its support for the National Policy on methadone". The 1995 national *Review of Methadone Treatment in Australia* argued that: "Methadone treatment is without competitor as the best researched of all treatments for opioid dependence which has been clearly demonstrated to reduce illicit opiate use more than either no-treatment, drug-free treatment, and detoxification in randomised controlled trials." Methadone programs properly con-

ducted should provide ancillary services, HIV counselling, crisis management, health monitoring, vocational counselling, psychiatric liaison and welfare support. Recent critics of methadone treatment have suggested that patients are intentionally maintained on methadone rather than progressing to abstinence. Higher doses than requested by patients have been attributed to a profit motive by doctors.

The reality is that methadone treatment may have a variety of goals. Abstinence is clearly one but so too is stabilising an addict's life, reducing the use of illicit drugs and eliminating participation in criminal activity. In treatment, tolerance is deliberately induced to a stable dose of methadone sufficiently high to block the narcotic and euphoric action of methadone and other opiates. In proper doses it does not create euphoria, sedation or analgesia and should not have adverse effects on motor skills, mental capacity or employability.

Whilst there were 211 deaths associated with methadone in NSW from 1990 to 1995, in 91 per cent of cases other drugs were present, 29 per cent were suffering an illness and 9 per cent were from methadone overdose. Heroin users are 13 times more likely to die than an addict in a registered methadone program.

What we do need in Australia is research into ways of effectively withdrawing people from methadone maintenance. Many addicts report that methadone is harder to kick than heroin.

Despite the public frenzy that followed the 1997 tabloid headline, "I woke up cured of heroin addiction", naltrexone is neither new nor is it *the* cure for heroin addiction. Although naltrexone blocks the effect of heroin on the brain, it is not a "cure" for heroin because getting off drugs is not about drugs and chemicals. The drug deathstyle is about choices and damned hard ones at that. To suggest you can wake up cured avoids the ambivalence and motivational issues central to drug dependence.

What is new for a drug that has been available since 1972 is combining a general anaesthetic with its intravenous administration, a climate of sophisticated marketing of the treatment to government after a media blitzkrieg, and personal testimonials. For some it represents a symbolic exorcism. You can also go "trainspotting" – lock yourself up in a room with a can of tomato soup and a blanket. Naltrexone increases both the cost and physical risks. There is a risk that without proper scientific evaluation of naltrexone in the treatment of opiate addiction that we may see the further exploitation of an already over-exploited group. Reports of outstanding results ignore the high levels of motivation of families prepared to pay between \$5,000 and \$11,000 for the treatment. As Mark Twain observed, "Giving up smoking is easy, I've done it a hundred times."

But, like LAAM, buprenorphine, slow release oral morphine (SROM) and tincture of opium currently being trailed with 3,000 hero-

in addicts, naltrexone is likely to be a very useful addition to the medical options available for those who seek treatment. What is important is that those doctors who are able to prescribe naltrexone be specifically trained and accredited to do so as a part of a comprehensive treatment and rehabilitation program.

Moves to "fast-track" naltrexone onto the Pharmaceutical Benefits Scheme (PBS) ignore the need to properly evaluate trials underway. We also risk inappropriate and indiscriminate prescribing by doctors poorly trained in use of the drug and heroin addicts not detoxified expecting a "miracle cure". The likely consequences are wasted resources and increased deaths.

A more sensible way to proceed would be to reallocate budgeted, unspent funds under the Divisions of General Practice Program for heroin addiction using naltrexone. This would not only serve the interests of addicts but it would serve to bring community based services closer to GPs whilst improving the addiction skills base in our primary care workforce.

Prime Minister John Howard is to be congratulated. His government, largely through his own commitment, has put more resources into combating drug use than any other government in this nation's history. *Tough on Drugs* may not be everyone's preferred title, but in spreading resources across policing, enforcement, education, prevention, treatment, rehabilitation and research, Australia now has a more comprehensive and better funded drug strategy.

As David Crosbie, CEO of the Alcohol and Other Drugs Council of Australia remarked after the last round of funding was announced, "I actually find it quite moving to look through the list of programs that are to receive funding under this initiative. Programs for Aboriginal people, young people, people who suffer mental illness, and women with children. Many of these people currently don't have access to appropriate drug treatment programs. Now at least they will have a chance to change".

The Council of Australian Governments has now also committed to a diversionary strategy for drug offenders enabling the courts to direct eligible drug users into treatment rather than jail. At last we are moving drug use more to a medical, rather than criminal model. For some it will mean much better outcomes. Similarly the trial in NSW of drug courts enabling drug users who plead guilty to certain crimes to choose prison or 12 months of treatment and rehabilitation provides new hope. It is here in particular that oral naltrexone may have a real place.

And so what of the others? What do we do with those who use heroin once and have an overpowering compulsion to do so until they die? Faced with what is a chronic, relapsing and, in all probability - fatal condition, do we have everything available to us that we need?

I am privileged to represent the electorate of Bradfield on the Upper North Shore. I am aware of some 30 families in my electorate who have either lost children to heroin or as one woman put it to me, "are currently living the nightmare". Two have teenaged daughters working as Kings Cross prostitutes to maintain their addiction. Another had his own son arrange a break-in to the family home.

I had the recent, increasingly typical experience, when attending a large home in an affluent suburb in my electorate. As the salmon savories were passed around to the sound of a string quartet by the swimming pool, an elderly gentleman said to me, "You're that fellow that's on about the drugs." With some hesitation in such company I replied that I was, to which our hostess prompted that "I probably wouldn't want to talk about such things".

As I carefully set out my views on heroin trials she interrupted, "We have three children. We love them all. Two are successful but our third; a 26 year-old law graduate has been a heroin addict for five years. My husband and I have had him in every treatment program, public and private that we can find. Now each night we wait for the call. We wait to be told that he is dead. The phone rang at two o'clock this morning. Royal North Shore Hospital said he had overdosed in the car park of a hotel. So desperate is our situation that six months ago my husband and I decided to finance his addiction to stop him stealing from our friends. If he spent six months in the desert - as he has - no sooner would he return than get back onto it. If he could only go to some clinic and inject heroin two or three times a day, at least we know he would be more likely to live his way out of it."

I was President of the Australian Medical Association when, in 1994 the Ethics, Science and Social Issues Committee brought a recommendation to the federal council that it endorse a trial of the controlled injection of heroin in the ACT. My instincts told me that this was nonsense. I well recall Professor Priscilla Kincaid-Smith, then Chairman of Council and an internationally eminent physician remarking that "it seems an odd thing to give people heroin in order to get them off it". I am ashamed to say that I used my position to kill it. Several weeks later the researchers came to see me, explaining why and how the trial would be conducted. It was subsequently brought back to the AMA and endorsed. A heroin trial seeks to answer the following question.

If you take a person who is already addicted to heroin, whose only obsession is one thing and one thing only - their next fix; someone who has failed repeatedly in treatment programs and is prepared to prostitute his/her own body, commit crimes against innocent people including their own families to maintain their addiction; if you take such a person and require them to inject under supervision - no takeaways, in

a drab but safe and supervised environment - is that person less likely to die?

Are they less likely to contract a serious disease from which they will eventually die and in the meantime cost the taxpayer an enormous amount of money? Are they less likely to be homeless? Are they less likely to be unemployed? Are they less likely to be committing crime against innocent people and are they more likely to have some semblance of relationship with their families and those who still continue to love them? Until we do such a trial we do not know.

The trial itself is not by any means the solution to the "drug problem". There is no single solution and the goal of a drug-free society, as noble as it may be, is a utopian dream. In the context of the leadership shown and initiatives now undertaken by the prime minister, a trial should be revisited. The trial is not about a permissive attitude to heroin, nor is it about legalisation. It is instead about taking a subset of heroin addicts for whom all other options have been exhausted, for whom death is a day to day expectation, and asking ourselves whether they, their families and society are likely to derive some benefit from heroin administered in this way.

I am personally nauseated by the prospect, as I am of injecting rooms. But one of the most difficult and critically important responsibilities of medicine and politics, is to put aside your personal feelings - to ask yourself whether what you seek to do serves the interests of those individuals and the society which you purport to lead. As a doctor, I find it difficult, notwithstanding the self-inflicted dimension of drug use, to stand aside and allow policies that kill people.

From the Jesuits I learned four principles - courage, commitment, conscience and compassion - compassion that requires you to share another person's pain, to place yourself in the shoes of another human being. I challenge anyone here tonight to place themselves in the shoes of a parent of a 20 year-old son or daughter hopelessly addicted to heroin. What options might you want to be available?

One constituent said to me last year: "Dr Nelson, my husband and I are very conservative. There is no way we would have ever voted for someone like you - and we did not. A year ago we would have been appalled at the thought of a heroin trial, giving heroin to addicts in this way. But for nine months we have been living the nightmare of heroin addiction with our 18 year-old daughter. All I can say is that I am proud to have you as my member and we will give you every possible support in what you are trying to do. A heroin trial won't do anything for us and our family crisis, but it will give hope that someone else might find it easier to get through this than we."

I don't support the legalisation of currently illicit drugs. We made that mistake with tobacco. But to build on the Government's diversion-al program there is a legitimate and growing place for a trial similar to,

but more scientifically disciplined than that conducted by the Swiss. Those opposed to the trial argue on the basis of:

- Sending the "wrong signal" to young people
- Cost
- Treaty obligations
- Doubt that it would be beneficial
- That at the conclusion of the trial, the next logical step would be legalisation

While concern about cost is legitimate, it fails to take into account the profligate way in which we underwrite imprisonment. Nor are these views informed by data from the Australian Institute of Criminology identifying 8,000 hard core heroin addicts as the cause of 90 per cent of household break-ins. A dependent heroin user on the streets for a year costs \$75,000. Jail costs us \$50,000, a therapeutic community \$16,000, methadone \$2,000 and a heroin maintenance program \$10,000.

The "cost" equation of the trial's critics also fails to recognise that the overall death rate of 0.7 per cent per year in the Swiss trial compares favourably with a rate of 2.6 per cent for methadone and 8.9 per cent with no treatment at all. Significantly, from the Swiss cohort of 1,146, not one died from overdose. The 36 deaths were from AIDS, infectious diseases, suicide, and abuse of non-prescribed drugs. We surely are free to argue under the UN Single Convention on Narcotic Drugs 1961, that a heroin trial of this nature is "limited to medical and scientific purposes"?

The "wrong signal". Firstly this underestimates the intelligence and influences upon young people. Taking a group of skid row heroin addicts and requiring them to inject in a medicalised environment in no way glamorises drug use. It sees them as people with a disease. We give nicotine to tobacco addicts but I have not found it increases the likelihood of young people smoking.

Secondly, if we want to talk about "wrong signals", I'll give you one. I was invited to address a meeting of some 400 good, decent, concerned people on the issue of drugs at the Penrith Leagues Club late last year. A woman asked, "Why are kids taking drugs? Why do they want to do it?" I said, "The answer is all around us. Today I have walked past rows and rows of poker machines in front of which sit chain smoking individuals, drink by their sides, pushing hard earned low income dollars into what are basically tax collection vehicles. We then wonder why kids take drugs."

For those Liberals mulling over the ashes of the recent NSW State election debacle in search of electoral relevancy, I offer this.

On the 16 March, just under two weeks before election day, the Daily Telegraph ran a story about Liverpool Council's proposal to sell the Liverpool Memorial Swimming Complex to Canterbury-Bankstown Leagues Club to build a \$100 million hotel and gambling

complex into which would be placed 1,000 poker machines.

The story appeared under a photograph of two returned servicemen wearing their medals in front of the swimming pools and a movement in honour of A.E. Smith who had served and died during the Boer War. These men described the proposal emotively as a "desecration of Australia's war dead".

Yet neither Mr Carr nor Mrs Chikarovski took the issue up as one that goes not only to the heart of a failing society but also of the valueless vacuum driving drug use amongst the next generation. Like the coal miner's canary, young people's resilience and determination, reflects the real "progress" we are making. You want "wrong signals"? Well there's two.

The most intellectually bankrupt of the arguments put forward is scepticism about success. Or is it a fear of success in terms of improved health, social and economic outcomes? Nothing is ever achieved in science without experimenting to prove or disprove an hypothesis. Would penicillin have been discovered had Florey taken the view that success was not likely? Nothing of importance is achieved in life, medicine or in public policy without taking a risk - without having a "brave heart".

Those who want to unravel the policy of prohibition will continue to argue their case irrespective of a heroin trial or not. But what the trial does do is medicalise the problem. Also, are we prepared to pay the price of human life and social dysfunction to maintain our ignorance of what could prove a useful adjunct to the treatment of heroin addiction? The Swiss trial was disappointing in that there was no control/comparison group studied; it lacked rigorous evaluation of the social impact of prescription and no comparison with the cost effectiveness of methadone was conducted. Nonetheless the results are promising, whether a consequence of heroin alone or in combination with counselling, psychiatric, welfare and social services provided.

- Illegal income declined from 70 per cent to 10 per cent confirmed by police records
- Homelessness dropped from 12 per cent to 1 per cent.
- Permanent employment increased from 14 per cent to 32 per cent.
- Cocaine use dropped from 82 per cent to 52 per cent.
- The number of criminal offences decreased 60 per cent in the first year of the trial.
- The retention rate was 89 per cent over a period of six months and 69 per cent over 18 months. This is above average for heroin treatment programs. Of those who dropped out, 57 per cent moved to other treatments, 8 per cent gave up heroin altogether and 36 died.

But the real war on drugs is yet to begin.

What is it that is breeding a despondent disillusionment in the present and a sense of forlorn hopelessness about the future? Why is the intoxication and excitement afforded by drugs preferable to an unclouded consciousness? The answer is all around us. You can open a newspaper, turn on a television or radio in any part of the country on any day of the week and confront evidence of a society that is failing in so many ways. Drug use sits at just one point of a spectrum of self-destructive behaviour at the extreme end of which is suicide. We are preoccupied with death, whether it be suicide rates amongst the highest in the world, or a euthanasia debate which sends a powerful subliminal message that death is a solution to what we think are insurmountable problems.

Gambling has been elevated to the status of a religion in many parts of the country. We have engaged what has been described as a "race debate" over the past three years and each day brings further evidence of the growing extremes between poverty and wealth. Confidence in the future is a minority position amongst young people in every survey of their attitudes taken over the past five years. A recent study of year eight students (aged 13-14) by the Victorian Centre for Adolescent Health, found that 40 per cent felt they did not have anyone who knew them very well – who understood how they felt. Almost a quarter could not name a single person they could trust.

Tethered still to the values of my generation, that hard work will deliver a higher standard of living than that of their parents, gauging success as the acquisition of a BMW, mobile phone, fashionable clothes and an outstanding UAI, the next generation faces this daunting task finding themselves cruelly short changed by the reality life delivers. Diminished confidence in institutions, marginalisation of churches and values based organisations from public policy debate, a diminished role for parenting as a full time occupation, reduced emphasis on voluntary work and pushing kids to the zeniths of educational achievement for jobs they think unlikely to exist, have effectively destroyed the mesh of values that holds us together. The most critical question to be asked and answered by our political leaders is "towards what do we strive to make progress?"

John Kennedy identified the real struggles for his generation as being against "tyranny, disease, poverty and war". What do young people see as the struggles for ours? Do they think our battles are confined to the current account deficit, high interest rates and share ownership? Is that perhaps why the idealism so characteristic of earlier generations has been replaced by a grim determination to simply survive? The problem is not that young people have not learned our values. It is that they have.

If we are to give the next generation the confidence to believe that the future is as much theirs as ours to shape, to give them the sense of

belonging and meaningful purpose coined by Richard Eckersley so critical to resisting drugs, then what we need is an attractive, inspiring and achievable vision for our country - a vision which embraces human, economic and social objectives. Something obvious is eluding us - our legislators, leaders and certainly the John Elliots of this world, but which is quietly understood though not articulated by everyday Australians, and that is that the emerging political battles are not one of Labor and Liberal, nor are they of the left and right.

The political divide is rapidly becoming one fought between those who have an ethics, values-based approach to life's problems on the one hand, and materialists who see little other than the primacy of markets as an end unto themselves on the other. The German philosopher and physicist, Bernhard Philberth in his book entitled *Revelation* said of change:

Progress leads to chaos if not anchored in tradition. Tradition becomes rigid if it does not lead to progress. But a perverted traditionalism and a misguided progressivism, propel each other toward a deadly excess - hardly leaving any ground between them.

In reflecting on this telling observation, we may find some answers to what is an all-consuming problem.

Endnotes

- 1 Quoted in S Henry-Edwards and R Pols, *Responses to Drug Problems in Australia* (National Campaign Against Drug Abuse Monograph Series no. 16), AGPS, Canberra 1991:2.
- 2 The Preamble referred to the "loathsome and odious sin of drunkenness" and its multifarious social consequences. (1606) for JAC1c5.
- 3 Australian Institute of Health and Welfare National Mortality Database.
- 4 Holman DCJ, Armstong BK. *The Quantification of Drug-caused Morbidity and Mortality in Australia in 1998*, Canberra. Dept. of Community Services and Health 1990.
- 5 Sullivan, L. "Interpreting our Drug Mortality Statistics". *Medical Journal of Australia*. Vol. 161. Nov. 1994.
- 6 Brown, K and Crofts, N. "Health Care costs of a continuing epidemic of Hepatitis C virus infection among injecting drug users". 1998.
- 7 Davies, Shaun. "Infectious Diseases, NSW needle and syringe program: features and public health benefits". *NSW Public Health Bulletin*, Vol 9, No. 11, Nov 1998.
- 8 Davies, Shaun. "Infectious Diseases, NSW needle and syringe program: features and public health benefits". *NSW Public Health Bulletin*, Vol 9, No. 11, Nov 1998.
- 9 National Drug Strategy, *National Policy on Methadone Treatment: 1*.