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## Bankruptcy

**Bankruptcy, it's how creditors recover money from insolvent borrowers. But is it too easy to obtain?**

**A debt of just \$5,000 can start the bankruptcy boulder rolling. And then along the way, charges accrued by the trustee in bankruptcy can add many thousands to the initial debt.**

**Is this fair? And is this the most effective way to recover the money owed?**

**Damien Carrick:** Hello and welcome to the *Law Report*, I'm Damien Carrick.

We're all familiar with the term bankruptcy. Businesses and individuals can bankrupt themselves if debts become overwhelming. But of course creditors can also pull the plug.

Up until very recently under federal law, a person could be bankrupted for a debt as small as \$2,000, even if they have cash in the bank or other assets available to service those debts.

In December 2010, the minimum debt rose to \$5,000. But many who pushed for those recent reforms say the changes did not go far enough.

Consumer credit advocates maintain there is an urgent need to reconsider the practices of bankruptcy trustees. They're the third-party firms that step in to help creditors recover money from debtors.

Along the way, these trustees generate their own fees - and sometimes those fees can balloon out to many tens of thousands of dollars...

Paying off those fees (which are sometimes much larger than the initial debt) can force the sale of a bankrupt's major assets, such as the family home.

The *Law Report's* Erica Vowles delves into the world of debtors who bury their heads in the sand, face bankruptcy, and then those ballooning trustee fees.

**Erica Vowles:** Zanu Aberdeen is originally from India. He came to this country 10 years ago, and about five years ago he bought a takeaway business. He then decided to sell that business to someone else, who paid him \$5,000. Six months later the buyer changed his mind, and said he didn't want the business...but he did want his money back...

**Zanu Aberdeen:** I said I'm not going to pay, because I have to pay the rent and so many bills and everything. So he's the one who went to the lawyer first.

**Erica Vowles:** So he went and sought legal advice.

**Zanu Aberdeen:** Yeah, legal advice. And they sent me a letter to come to the court. And then I went to this guy, the solicitor, and I said, 'Look,' I said, 'I received

this letter, and I have to go to the court so I need your help. And they said that's fine, we can help you. I said, look, how much are you going to cost me, and he said hopefully we are not going to cost you anything because we're going to charge that guy, the other party.

And after a few months we had to go to the court and we were sitting next to the magistrate. The guy, he didn't come. He sent one of the trainees. And the trainee, he wasn't ready. He wasn't prepared for anything. So I said what's the point, hiring you? I would have made a deal with that guy instead of paying \$5,000. I would have paid him \$3,000, he was happy. He was not asking for the whole amount.

**Erica Vowles:** So in the end what happened?

**Zanu Aberdeen:** I had to pay \$5,000 to that guy. I wasn't happy and when I came out from the court I was just talking to the guy, and I said, 'Look, what's the point of hiring you?' And he said, 'Don't worry, I'll fix it. I'll fix it. I'm pretty sure you don't have to pay anything to us. Just pay \$5,000 to that guy.' And I paid \$5,000 and after two months I think I received a letter from them with a bill.

**Erica Vowles:** From the solicitor?

**Zanu Aberdeen:** The solicitor. And they are saying you have to pay more than \$2,000, but they say you can pay \$2,000. I gave them a call back. I said, 'Look, you said already you're not going to charge me. Now you're sending me this letter.' They said, 'No, no. You have to pay this much money,' and this and that.

**Erica Vowles:** So at that point you said, 'I'm not going to pay this bill.'

**Zanu Aberdeen:** Yes.

**Erica Vowles:** And you thought that was that. You left it at that.

**Zanu Aberdeen:** Yes.

**Erica Vowles:** When did you next hear from this solicitor?

**Zanu Aberdeen:** In April 2008.

**Erica Vowles:** So over two years later you received a letter in the mail. What did that letter say?

**Zanu Aberdeen:** That was like a whole paper, like saying you have to pay \$3,000 at that time, otherwise we will make you bankrupt. And I just ignored. I thought he'd have to call me first for the magistrate's court and I will go there, I will sort it out over there. But in May they were saying you have already been made bankrupt.

**Erica Vowles:** So you didn't hear from the solicitor for two years, then the next time you heard from him it was a judgment that had been lodged in the magistrate's court proving your debt. And then a month later the proceedings went ahead and you were made bankrupt.

**Zanu Aberdeen:** Yes. At that time I found out that that bad credit rating, that bankruptcy is going stay a whole life on my name, so I can't get any credit or anything.

**Erica Vowles:** Zanu Aberdeen. Catriona Lowe is the Co-Chair of the Consumer Action Law Centre. She says that Zanu Aberdeen's story is more common than you might think.

In fact, her organisation has represented many clients who end up owing more money to bankruptcy trustees than they do to the original creditor.

She says that once a creditor has lodged a petition to have a debt proven in the Magistrates Court, and they obtain judgment, they can then proceed down the path of bankrupting a debtor.

However, her organisation has lobbied hard against Bankruptcy laws being used to collect debts from people like Zanu Aberdeen who are solvent. In other words people who do have the money to pay their debts.

**Catriona Lowe:** Bankruptcy is a very big deal. It puts the entirety of a person's financial position in the hands of a trustee. So let's say for the sake of argument a person has \$200,000 worth of assets, and a bill that they haven't paid for \$5,000. The whole of that \$200,000 is at play in order to satisfy the \$5,000 debt.

**Erica Vowles:** I can imagine people listening this might be thinking who are these people? They've brought this situation on themselves, they didn't pay their debts. Maybe they let a phone bill, maybe they let an internet bill or a gas bill or something like that get out of control and this is terrible, but at the end of the day people should pay their debts.

**Catriona Lowe:** We don't disagree that where debts are legitimately owed that they should be paid. We absolutely think that that is appropriate. The question is, what mechanism should creditors turn to when those debts aren't paid. And we think it is unreasonable as a matter of general principle that people could be at risk of losing their home over a \$5,000 debt, and we also think that it's actually not what the legislation is intended for.

**Erica Vowles:** In terms of the types of people that you've given legal advice to in the past about this, how do these situations get so out of control where someone buries their head in the sand over a \$2,000 debt or a \$5,000 debt and suddenly they're bankrupted. How does that happen?

**Catriona Lowe:** The way that is typically happens is that a person, as you say, does ignore earlier steps in the process. It's important to understand that those steps in the process are all paper-based. Now clearly it would be better if people didn't ignore those things. There's simply no question about that, and we always say to people when faced with those situations the earlier you get advice, the more options you have.

In fact the entire process is paper-based. There's no point at which someone turns up at your door or says to you, 'Your house is going to be sold.' So what you will receive is a complaint from the magistrates court, and if you do nothing about that, the next thing that you might receive is a notice that judgment has been entered.

There could then be quite an elapse of time and you might get another piece of paper that's called a bankruptcy notice. If you don't respond within the now 21 days that you have for that notice, it is incredibly difficult to wind the process back. Because if the person doesn't respond at that point in time, then the next stage is reached and it's what's called a creditor's petition.

**Erica Vowles:** And just to give people a bit of an idea of the types of people we're talking about here, paint some pictures of some of the people that you guys have helped out in terms of their backgrounds, their level of financial acumen.

**Catriona Lowe:** Many of the people talk to, particularly people that are in the small debt arena, they may only have one debt. It might be for gas or utility or broadband or something of that kind. And to start with it simply never occurs to them that a consequence of not dealing with that bill is that they could lose their home. It just doesn't occur to people that the consequences could be that serious.

Then you overlay with that that these are complex legal documents. We're often talking about pensioners or Centrelink recipients, or people that may be from a culturally and linguistically diverse background; or simply people that aren't particularly financially sophisticated. And these are court documents we're talking about. They're not accessible, easy to understand documents.

**Erica Vowles:** Once a person is made bankrupt they then have to deal with a bankruptcy trustee - a third-party firm which steps in to liquidate assets and recover funds in order to pay off outstanding debts.

**Zanu Aberdeen:** And then I received a call from a trustee.

**Erica Vowles:** From the bankruptcy trustee. This is the person who is representing the creditor. In this case your solicitor. What did they say?

**Zanu Aberdeen:** They said you have to come over here. And I went to their office and they gave me the bankruptcy form to fill in, because I hadn't filled in that form until that time. I said, 'How can I get rid of that?' I say can I make a deal with him -- I don't want to be bankrupt, you know? I have enough money, I can pay off. So she said, 'Oh, you just fill this form and within a few weeks you will be out of debt. You have to pay maximum \$5,600, \$6,000 and that's it.'

**Erica Vowles:** You got some legal advice and you were passed on to the Consumer Action Law Centre. Eventually the Bankruptcy Trustee sent the Consumer Action Law Centre the final bill, including the debt, and the fees of the trustee. How much was that bill?

**Zanu Aberdeen:** It was \$22,000.

**Erica Vowles:** So she'd said to you in May 2008, 'You'll get out of this...\$5,000, \$6,000.' By September 2008: \$22,000. So you went to the Consumer Action Law Centre and they managed to negotiate with the trustee to get that final bill reduced down a bit. How much did you end up paying?

**Zanu Aberdeen:** Around \$14,000.

**Erica Vowles:** So this \$2,000 debt from the solicitor, two and a half years later, turned into \$14,000 out of your pocket.

Zanu Aberdeen was lucky to have friends who loaned him the money to repay this \$14,000, otherwise, he could have lost his house.

Others are not so lucky. A few years ago a report by the Financial Counselor at Eastern Access Community Health in Melbourne detailed a number of instances where people's home were at risk from small debts. Catriona Lowe from the Consumer Action Law Centre took me through one case.

**Catriona Lowe:** I'll give you a typical example. I'll talk about a fellow called Tom. That's not his real name. Tom's 33. He suffers from a bipolar disorder and he owns his home with his wife and children. He incurred a debt of around \$4,000 with a firm of solicitors, which he disputed. The firm pursued Tom for the debt, and allegedly incurred around \$8,000 in seeking to collect that debt from him, and then turned it over to another agency to continue that collection activity.

That second firm allegedly incurred costs of another \$8,000, and they were then successful in petitioning to bankrupt Tom and a private trustee was appointed to manage that bankruptcy.

The total of the legal costs and the trustee fees when he sought assistance from us was \$24,500. And I'm sorry to say that is far from the largest example we've heard. He has lost his home as a consequence of that. And that clearly impacts not only on Tom but his wife and his children as well.

One of the key elements of this is that even if the threshold was \$10,000, which is what we were arguing

that it should be, Tom's creditor would still be able to seek his bankruptcy unless there's one other critical amendment that's made, and that is that the threshold apply to the underlying debt.

So no costs, no late fees, no interest -- which are all very open to argument as to their legitimacy and amount -- none of those things, in our view, ought to count for the purpose of bringing that creditor's petition.

**Erica Vowles:** In that report called *Homes At Risk* I saw a couple of other case studies: one where a trustee was appointed to chase an original debt of \$5,000. Once the bankruptcy trustee had finished they'd accrued fees of \$58,000. There was another debt of \$7,000 that led to a person being bankrupted and the case was passed on to a bankruptcy trustee and they accumulated \$70,000 in fees. Is this the norm?

**Catriona Lowe:** It is not at all uncommon, unfortunately, to hear these stories.

**Erica Vowles:** The courts have said some interesting things about these types of cases. One magistrate in the federal court, Justice Reith Muller, in a 2006 ruling on a case involving someone who was bankrupted by a hospital to recover a small debt. That magistrate described how bankruptcy laws shouldn't be used against people who are in fact solvent. That is, they have assets, but show that they can actually make good on their debts. And they said that this is a good principle to be maintained, because it could stop trustees 'feasting on the assets of solvent estates.' So it seems to me that there is an industry of bankruptcy trustees that accrue these large fees. Are they the norm of bankruptcy trustees?

**Catriona Lowe:** Look, it's important to say that there are a number of bankruptcy trustees out there and many of them do a very, very good job indeed. So this is by no means an issue that is endemic across the trustee industry. However, it is too common and there are at least a few that seem to commonly engage in this sort of practice.

**Erica Vowles:** I was originally put on to this issue when I was handed some documents relating to another matter of a person who was bankrupted over an original debt of \$5,000. This saw the bankruptcy trustee's fees amount to \$60,000. If someone is bankrupted and their financial matters are being handled by a bankruptcy trustee and these massive fees are accrued, what recourse do they have? Do they have anywhere to go if they don't agree with the handling of their financial estate?

**Catriona Lowe:** Debtors do have some more options than they used to under the old regime. One of the important changes is that it is now open to debtors to seek a review of fees from ITSA, that's Insolvency Trustee Services Australia, and they are the regulator, if you like, in relation to bankruptcy. So a consumer who has concerns is now able to apply to ITSA to have those fees reviewed. Importantly it's now free for

people to do that. It didn't used to be, and that had the not surprising effect of meaning that not many people did it. If you are already in a situation where you're watching equity being stripped out of your home, you're probably not about to engage in any activity which means that that might happen at a faster or greater rate. So it was a real disincentive to consumers, because they knew that the costs of that review would come out of their estate. Whereas now it's free.

**Erica Vowles:** ITSA has indicated that it will review the fees charged by bankruptcy trustees in exceptional circumstances and will even force rogue trustees to pay back unreasonable charges.

The Law Report sought an interview with ITSA to see just how often it uses these new powers. However, ITSA declined to comment.

As we heard, since December 2010 you have to owe \$5,000 before you can be bankrupted. But Catriona Lowe says this change has not stemmed the flow of inquiries to the Consumer Action Law Centre.

**Catriona Lowe:** We've had 42 calls about bankruptcy since December last year, which is a reasonably substantial number. Just under half of those calls were about people who were concerned that they would be the subject of a creditor's petition. It wasn't their choice to go bankrupt. And of that, roughly 50%, around about seven of the cases involved these small debts, under \$10,000, and commonly where somewhere between half or more of that was fees and charges.

**Erica Vowles:** And presumably of these cases of the people who have contacted you, some people are at risk of losing their homes?

**Catriona Lowe:** that's exactly right. We've had calls from people that do have homes at risk. There is an example where the debt is a very old debt -- at least five years old, and it's in the order of \$6,000. This consumer made an offer to pay a lump sum, which was refused, and they are now facing all of their assets, including their home, being tipped in to this bankruptcy -- in circumstances where they've tried to pay. It's quite an extraordinary thing, that people can end up in this situation, and it happens where it's being used for debt collection rather than to address insolvency.

**Erica Vowles:** Catriona Lowe. I'm Erica Vowles and you're listening to The Law Report on ABC Radio National. Today we're looking at using bankruptcy to recover relatively small debts.

PPB is an advisory firm that acts as a bankruptcy trustee. A few years back PPB partner Scott Pascoe wrote a submission to a government inquiry into bankruptcy laws. He identified two types of small debtors. The first type he dubbed 'unwilling debtors' and he said it was right to use bankruptcy laws to chase these debtors. The second group he identified were 'incapable debtors', those who lacked the education or insight to deal with their debts. He said that if people in this group have the means to pay their

debts, they should be given alternative payment options before bankruptcy.

**Scott Pascoe:** Yes, in most cases that's right. I guess there are a couple of assumptions in that, though. One is that solvency is not necessarily just a surplus of assets over liabilities, and there needs to be some available funds to be able to discharge debts. So sometimes the sale of a house, for example, might be the only way a debt can be paid, and even if there appears to be quite a big surplus in assets that are available. So it's not necessarily just a simple case of whether because of solvency or because of a surplus of assets that bankruptcy shouldn't be the solution for the particular problem.

**Erica Vowles:** When the laws were being debated you did argue very strongly against raising the minimum amount that a person could be bankrupted to \$10,000. Can you tell me why you felt that raising it to \$10,000 would be a bridge too far?

**Scott Pascoe:** By raising the threshold to \$10,000 the effect would be to affect every person who may be in a position of not paying a debt of between the two and ten thousand dollar mark, rather than focusing on this category of person who's having a great deal of trouble paying their debts for whatever reason and hasn't got the capacity to do it. And so it's a very blunt instrument to adjust the whole bankruptcy scheme to suit what is a fairly relatively small number of cases of people who have fallen into this trap where they've failed to seek the proper help that they need.

**Erica Vowles:** So how important do you feel the bankruptcy act is in protecting the interests of small creditors, like small and medium sized businesses?

**Scott Pascoe:** Well that's very fundamental from that point of view, because that's the fallback for ensuring that there is some integrity in the payment system. So that businesses can carry on their business knowing that they've got some safeguards to protect when they inevitably have to give credit to customers. If you take the case of sole traders, or tradespersons, if you raise the threshold to something like \$10,000, that could be a very substantial part of their annual income, which if they were unable to recover by some fairly strong means would mean a couple of those and they may have trouble putting food on their own table. So it is important to the payment system that there is a fairly strong incentive for people who incur credit to actually pay. It's very common in the building industry, for example, where subcontractors follow a main contractor or builder who becomes insolvent and is carrying a fairly large debt to them.

**Erica Vowles:** I guess people listening to this would agree that people need to pay their debts, and our system works on the basis that people will pay their debts and if people don't pay their debts then that money can be recovered. I guess where the concern in this situation creeps in is whether the Bankruptcy Act itself and the role of bankruptcy trustees is the most

appropriate way to chase small debts. And in researching this story I came across one matter involving one outstanding bill of just over \$5,000. And I looked at the paperwork on this matter and the bankruptcy trustee charged 180 hours of accounting. They clocked up 180 hours of accounting in chasing this one \$5,000 debt. Is it any wonder that people are concerned, and that magistrates talk about trustees 'feasting on the assets of bankrupts'? It just seems that incredibly large fees can be accrued in chasing what can be quite small debts.

**Scott Pascoe:** Yes, it definitely can occur. And the difficult part really is knowing all of the background in those sorts of situations, and trustees generally charge, as you've pointed out, on a time basis. And very much the cost of running the bankruptcy doesn't relate to the size of the debts that are in the bankruptcy, but relates to the amount of time that's to be spent. Where the bankrupt themselves fails to cooperate, or continues not to cooperate with the trustee after bankruptcy, that's when the costs of administering the estate can really become quite steep and quite expensive. No doubt there are some cases where trustees have charged too much, but equally there's a lot of cases where, when you take all of the circumstances, that the amount of the fees incurred has unfortunately been justified by the actions of the bankrupt themselves.

**Erica Vowles:** Trustee in bankruptcy and partner with firm PPB Scott Pascoe.

Catriona Lowe from the Consumer Action Law Centre says everyone owing money should be made to repay their debts. But she maintains there are alternatives to bankruptcy.

**Catriona Lowe:** Once the judgment is there, instead of going down the bankruptcy path the creditor has a number of other options under the Judgment Debt Recover Act. So for example, if you know a debtor is working you can get a garnishee order. That means that money is paid from the employer to the creditor directly. It doesn't rely on the consumer making a payment. It doesn't pass through the hands of the consumer. The money goes straight to the creditor under that arrangement.

**Erica Vowles:** What about a situation where someone is a pensioner or they're on Centrelink payments, they have a very small income stream but they own their own house? Garnisheeing wages might not be an option there. What happens then?

**Catriona Lowe:** That's right. There are options under the Judgment Debt Recovery Act to seize assets. Now that's not just houses; that's assets of worth generally. There are protected basics but beyond that assets are available to be seized. So in the pensioner example, if the debt's \$5,000, if the pensioner has a car as well as a house, then the sheriff would generally seize the first asset that was sufficient to satisfy the debt. So the car would be seized but the home would be left. And even if the house was the only asset the person had that was

available for seizure, it is a much cheaper process to do it through the sheriff's office and into the state supreme court than appointing a bankruptcy trustee through the federal process -- that doesn't formally tip a consumer's entire financial situation into examination. It's a much simpler, you know, money-in, money-out type transaction and therefore the costs are significantly lower.

**Erica Vowles:** And I guess the important thing is that the large fees can be racked up by bankruptcy trustees are avoided in this situation.

**Catriona Lowe:** That's exactly right. And the importance of that from the consumer's perspective -- clearly the house will still be sold in that example, but whatever equity is left after the debt is satisfied goes back to the consumer. And that's what we're not seeing happen in these cases, or not to the same extent, where trustees have taken tens of thousands of dollars of that equity before anything comes back to the consumer.

**Erica Vowles:** Trustees such as PPB's Scott Pascoe dispute that these state-based collection processes are as smooth-sailing as Catriona Lowe suggests. But those made bankrupt can also find their financial affairs anything but simple after bankruptcy.

Zanu Aberdeen, before this happened to you would you have ever thought that your house, your car, could have been at risk? You could have been made bankrupt over a \$2,000 debt?

**Zanu Aberdeen:** Not at all. I didn't have any idea.

**Erica Vowles:** What impact is being made bankrupt having on your financial affairs now?

**Zanu Aberdeen:** I had to pay that much money. I lost everything. I borrowed money from friends and I had to pay them. On top of that I had mortgage, family. And now, slowly, slowly, everything is OK. But still I can't get any credit card or I can't get any loan or any phone or anything because the black spot on my credit rating is sitting there. I was made bankrupt, so that's the problem. I would have forgotten everything but that kind of thing on my credit rating, whenever I go somewhere, like in a bank, I applied once for a credit card and they said no, you've been bankrupt. Bankruptcy is a big thing.

**Damien Carrick:** Zanu Aberdeen, who was made bankrupt in 2008, ending that report by Erica Vowles. That's the *Law Report* for this week. I'm Damien Carrick. Thanks to technical producer Tim Symonds.

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**Comments (1) Fredrick Toben :  
Tuesday, 05 July 2011 9:01:48am**

Thanks for the program - I just got out of it - they didn't want the money but want to stop me from functioning.

**Holocaust denier Fredrick Toben angry over court costs. AAP, July 04, 2011 1:49PM**

HOLOCAUST denier Fredrick Toben doesn't want to pay court costs he's incurred trying to avoid bankruptcy for

not paying court costs. Toben told the Federal Court in Adelaide he has settled \$56,000 in court costs after a bankruptcy motion was made against him by Jeremy Jones, former president of the Executive Council of Australian Jewry.



**Holocaust 'revisionist' Fredrick Toben with Peter Hartung, Director Adelaide Institute.**

**Source: AdelaideNow**

Mr Jones had successfully sued Toben for defamation for publishing anti-semitic material on his revisionist Adelaide Institute website and wanted to enforce the motion after Toben's cost bill was not paid on time. Toben went back to the court arguing he should not be made bankrupt because his former lawyer had failed to respond to the bankruptcy claim within 21 days. Toben said he wanted to run for federal parliament at the next election and could not do so as a bankrupt. In the court on Monday, he said he had paid the \$56,000. Representing himself, Toben said it would be "highly unjust" if he now had to also pay the costs of trying to avoid bankruptcy. The matter was remanded until Friday, when he will appear in the Federal Court in Adelaide via video link from Sydney.

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#### **Guests**

**Zanu Aberdeen** – Small business owner who was made bankrupt in 2008

**Catriona Lowe** – Co-Chair of the Consumer Action Law Centre

**Scott Pascoe** – Partner with advisory firm PPB, which acts as a Bankruptcy Trustee.

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**This transcript was typed from a recording of the program. The ABC cannot guarantee its complete accuracy because of the possibility of mishearing and occasional difficulty in identifying speakers.**

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#### **Further Information**

**[Vaucluse Hospital Pty Ltd v Phillips & Anor \[2006\] FMCA 44 \(20 January 2006\)](#)**

**[Bankruptcy Legislation Amendment Bill 2009: Submissions received by the Committee](#)**

**Presenter – Damien Carrick**

**Producer – Erica Vowles**

**Reporter – Erica Vowles**

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<http://www.abc.net.au/rn/lawreport/stories/2011/3260682.htm>

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### **Fredrick Töben takes a king hit but is saved from bankruptcy by a small handful of long-time supporters - final day 4 July 2011 at FCA Adelaide, Australia**

SOME SOLACE - the price of Free Expression in functioning democracy Australia on matters Holocaust-Shoah has been \$60,000+, and that's cheap!

Fredrick Töben takes a king-hit but is saved from bankruptcy by a small handful of long-time supporters. The Executive Council of Australian Jewry failed in its bid to extract its pound of flesh and to kosher slaughter Töben.

Says Dr Töben: 'Remember, one of the first laws enacted by Adolf Hitler and the National Socialists was to ban kosher slaughter in Germany. In retribution the Holocaust-Shoah myth was created to deflect from National Socialist humanitarian policies, and to deflect from an in-depth analysis of the genocide perpetrated by the All-lies on the German people and their allies. Now we are again faced with the divide – the dialectic battle of win-lose – of NATIONALISM v INTERNATIONALISM. Töben refuses blindly to believe in

the Holocaust-Shoah myths and considers taking the battle into Federal Parliament.

Töben continued: 'If newly elected Member for Kooyong, Josh Freudenberg, in his maiden speech really believes what he stated that "It's an outrage" to question aspects of the 9:11 tragedy, then Australia's political system faces great threats from those who fear embracing the truth concept. Freudenberg would block open enquiry on topics that threaten his world-view, for whatever reason. As to the 9:11 tragedy, let's remember that any thinking person would want to know why a third building imploded, and why there were no plane parts scattered around the Pentagon when a huge plane hit that building.'

Töben says he 'assumes that Freudenberg would also suppress an open discussion about matters Holocaust-Shoah, which has distorted our understanding of world history, especially in regards to the genocide happening

in Palestine, and Israel's obsession with Iran's nuclear development. It is therefore high time to liberate Australian parliamentarians from mental bondage to a mindset that fears truth-seekers.'

'Let me remind you how on 18 March 2003 Australia's Prime Minister John Howard and two days later, on 20 March 2003, then Canada's opposition leader Steven Harper, read almost identical speeches to their parliament wherein they justified the Iraqi invasion. What I want to know is who wrote that speech? This person was intimately involved in developing the Weapons of Mass Destruction lie!'

Töben says that he barely escaped being bankrupted, which would have prevented him from contemplating taking his fight for free expression to the heartland of Australian democracy - Federal Parliament House in Canberra.

Töben also scoffs at those who still defame him for his views, as Independent Senator from South Australia, Nick Xenophon, has already begun by stating Töben's views are "vile". Says Töben: 'Xenophon is rather

infantile in his attitude because he thinks I worry about what he thinks of my views. He discredits himself by smearing and not addressing my expressed concerns.'

'It does not surprise me to see those individuals who fear free expression labelling me a "hater", Holocaust denier", "anti-Semite", "racist", "Nazi" - such labels are used by those who have no arguments to refute my views. Such behaviour merely shows me how fearful some individuals are when confronted with challenging views that seek to find out the truth of a matter. It's the lazy thinkers and manipulators who care not for truth and who then quickly use such words in an attempt to stop a debate from developing.'

'I grew up in Australia during the 1950s when there was a bit more sanity about robust public debates. At school teachers would advise us that "Sticks and stones may break my bones but words would never hurt me."

Fredrick Töben thanks all those who have since 1994 supported and helped him in this battle to retain free expression in Australia.

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## Some 2007 Climate Change Preliminaries - guilt by association

From Adelaide Institute's Archive - Newsletter No 335 June 2007

<http://www.adelaideinstitute.org/newsletters/n335.htm>

**Professor R M Carter, Marine Geophysical Laboratory, James Cook University, Townsville, Qld. 4811**

Dear Robert [- organiser of the Inversell Forum, now defunct.]

I write with regret my offer to speak at your forthcoming Inverell Forum in mid-March 2007. It was with great dismay that I learned from last Thursday's *Australian* that Richard Krege will be addressing the forum on the topic of the Holocaust. On checking your web site to confirm this, I discovered that Dave von Kleist is also a speaker.

You must be aware that these are not persons with whom a professional scientist can associate and retain credibility. Indeed, I am concerned about the damage that has been caused to my reputation already by just the brief reference that has appeared in *The Australian*.

When you approached me to speak on climate change, I of course understood that I might share the podium with an eclectic group of speakers, but I had also

assumed that they would comprise other persons with scientific or professional credibility comparable to my own. That not being the case, I regret that I have no alternative but to decline to participate.

I apologize for withdrawing at this relatively late stage, as I realize that it will require you to schedule your opening evening address.

Finally, I would like to be crystal clear about one thing. Which is that I appreciate your invitation to speak on climate change at Inverell, and would have little hesitation in agreeing to do so on a future occasion, with one proviso. The proviso is that any such event must involve other speakers of high professional credibility, who have assembled to discuss the many scientific facets of the vexed topic of human-caused global warming.

With kind regards. Bob Carter.

**Fredrick Töben's published Letter to the Editor  
The Inverell Times, Inverell, Australia, 20 March 2007**

**Re: The Inverell Forum 16-19 March 2007**

Sir

Permit me briefly to comment on the wonderful and informative long-weekend event during which citizens of your town hosted about 250 people who travelled to Inverell from all over Australia, New Zealand and the USA.

The fact that this forum has been held for almost twenty years speaks for itself, and it clearly indicates that concerned citizens from all Australian states, in

particular, do need a forum where vital issues are addressed. There were farmers, bulldozer drivers, teachers, former soldiers, pensioners, academics. In other words there were individuals from all walks of life who attended this forum.

It was refreshing to listen to speakers who expertly addressed, among others, local, national and world politics, contemporary health, education and economic issues, always focusing on what is in Australia's best

interest. That some politicians would find this a challenge to their stayed routine life is obvious. But surely, would it not have been in their own interest to have attended the Forum to see and hear what this significant group of individuals is talking about? Unfortunately, the only politician willing to listen to the people talk was Senator Len Harris.

It was quite informative to hear the American media personality Dave von Kleist talk about the 9:11 tragedy. He suggested we should not accept the official conspiracy theory that is currently part of our mainstream mindset, that a small group of Arab 'terrorists' perpetrated the 9:11 attack on the USA. There are just too many physical facts that contradict such an official conspiracy theory.

During the Social Day at the Inverell Race Course discussions continued, among others there was Wendy Scurr who talked about the Port Arthur Massacre. Stuart Beattie had earlier stated that Sims Metal had collected the guns the Victoria Police had obtained through an amnesty call, and some of those guns had been found at Port Arthur! Or, there was the announcement of War Games in Australia at the end of May until the beginning of July 2007 called OPERATION TALISMAN SABER 2007, where the US military will be experimenting with toxic weaponry, etc. I have not

read anything about this major event in any newspaper.

Climate change, that latest topic of concern for all Australians, was also addressed, though it was sad to note that Professor R M Carter, Marine Geophysical Laboratory, James Cook University, Townsville, felt that his presence at the conference would diminish his standing within his own academic environment. [\*- see his letter below – the letter was not reproduced by the editor.]

This kind of prejudice, the fear of addressing a group unjustly regarded as scientifically illiterate indicates that Professor Carter lacks moral and intellectual courage. His failure of nerve is thus evident because anyone who is firm in his knowledge and belief does not fear speaking outside of his known inner circle.

This is what freedom and democracy is all about, and if we in Australia still value such freedoms we should proudly proclaim them.

That is what about 250 individuals did on this weekend in Inverell. Perhaps next year *The Inverell Times* will consider it a newsworthy event that a thinking group of individuals meets in your lovely city to thrash out problems and make worthy suggestions as to how the Australian political, economic and social fabric can be improved, how the quality of life of ordinary Australians can be enriched and sustained.

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### Fredrick Töben: Global Warming – and all that

Revisionists are all too familiar with the approach adopted by global warming believers such as George Monbiot. His criticism of the global warming skeptics is instructive, and his article follows below. Just look at his use of the new concept **>denial industry<** that comes directly from the Holocaust industry's arsenal and is used by the Holocaust believers in an attempt to discredit anyone who refuses to believe their version of events.

Why is this character assassination, this smearing one's opponent's reputation so important? It's the problem of funding, and of winning and not losing the argument, never mind about factuality, of truth-content. Monbiot gloats when a scientist admits he is wrong. This admission is to be celebrated because this is the essence, the hallmark of science, something that has been lost almost completely because of this battle over funding that then also flows into reputations and social standing. Many scientists adopt an absolutist approach mainly because those who fund their works want to see results.

And then there is also the matter of the law – litigation is one of the American diseases that can be called a growth-industry, and that all too often forces individual scientists to follow where the money is, and the fiddling of results begins. The AIDS saga is a prime example of this. In fact, medicine is a field where scientists are terribly constrained in what they can and can't do. Dr Geerd Ryke Hamer, the founder of German New Medicine, and his contentious cancer research is a prime example where because of his unorthodox research and results school medicine is under direct attack. If the scientific community adopted his method, then a multi-billion dollar cancer industry would wither away. Revisionists know all about

this in their battle against the multi-billion dollar >Holocaust-Shoah< industry.

I always am reminded of my studies when I see scientists admitting they got something wrong because American philosopher Charles Saunders Peirce, on whose works I wrote my thesis, put it beautifully:

>>Though infallibility in scientific matters seems to me irresistibly comical, I should be in a sad way if I could not retain a high respect for those who lay claim to it, for they comprise the greater part of the people who have any conversation at all. When I say they lay claim to it, I mean they assume the functions of it quite naturally and unconsciously. The full meaning of the adage *humanum est errare*, they have never waked up to. In those sciences of measurement which are the least subject to error – metrology, geodesy, and metrical astronomy – no man of self-respect ever now states his result, without affixing to it its probable error; and if this practice is not followed in other sciences it is because in those the probable errors are too vast to be estimated.<<

In science there is thus no absolute because we are dealing with the physical world. Islam puts it well: >The world is imperfect, only God is perfect<, i.e. the creations of our mind are absolute, but when we attempt to translate such impulses into physical reality, then we come across imperfections. When, for example, the creation of our mind becomes reality, as did the planning and execution of 9:11, then we see how dissenting voices – those who refuse to swallow the nonsense official conspiracy theory that a group of Arab terrorists did it – need to be legally persecuted/prosecuted in order to hide the truth.



There is also the other problem of the mind looking for a home, especially since Marxism-Feminism has reached its intellectual demise, and its remnants made up of >amoral< atheism fails to satisfy the questing mind's need to know about things. In Australia, for example, individuals, such as broadcaster Phillip Adams, need to find a new mental home that enables them to see things holistically. Adams' sometime embrace of Marxism morphed into Holocaust belief, which is also now falling apart, and he has now wholeheartedly embraced >Global Warming< as his new holistic world view – so much for someone who refuses to adopt a sound moral framework that is based on an empirical-biological theory of knowledge. Adams would never ask the question: >>If programs are set up to combat global warming, then can we get a measure through such programs how much global cooling is produced?<<

Remember the attitude adopted by Frenchman, Pierre Vidal-Naquet, and how he attempted to deal with Revisionists, such as Robert Faurisson?

>>I have thus imposed on myself the following rule: one can analyze their texts as one might the anatomy of a lie; one can and should analyze their specific place in the configuration of ideologies, raise the question of why and in what manner they surfaced. But one should not enter into debate *with* the >revisionists<. It is of no concern to me whether the >revisionists< are neo-Nazi or extreme left wing in their politics; whether they are characterized psychologically as perfidious, perverse, paranoid, or quite simply idiotic. I have nothing to reply to them and will not do so. Such is the price to be paid for intellectual coherence.<<

Adopting such a mindset, of course, is fatal for those who are still interested in developing fields of knowledge, of searching for the truth of a matter. The following is the >>closed-mind<< syndrome as illustrated by French academics Pierre Vidal-Naquet, Leon Poliakov, *et al*, who wrote and published the following in response to Professor Faurisson's challenge: >>Show me or draw me the Auschwitz homicidal gas chamber!<< the following:

>>...It is not necessary to ask oneself how, technically, such a mass murder was possible. It was technically possible since it took place. Such is the point of departure required of any historical enquiry on the subject. This truth obliges us to state

quite simply: there is not, there cannot be, any debate on the existence of the gas chambers.<<

And then there is Erica Wagner's famous interview with Gitta Sereny and published in *The Times*, 29 August 2001:

Gitta Sereny's ruthless desire to stick to the facts – that, say, Auschwitz was not a >death camp< – has not always won her friends. She is particularly scathing about the identification of Hitler's evil with the death of the Jews and only the Jews. She deplored the use of the word >holocaust<, she says.

>>I deplore it because what happened to the Jews was the sort thing that was done – but it has now become the only thing. And that is totally wrong. If one wants to be disgustingly numerical, one would have to say that Hitler killed more Christians than Jews. But we don't want to be like that. It's all wrong. But if we concentrate entirely on what happened to the Jews, we cannot see its parallels – and you know many in the Jewish community refuse to see such parallels because they think it diminishes their suffering. But it's not just terrible to kill Jews – it's terrible to kill anybody. This whole thing of the murder of the Jews – we must never forget it, it is part of history, children as long as the world lasts must know that this happened – but we badly need to accept it now as part of a terrible history, not the terrible history. I don't want anyone to think that I diminish it. I don't diminish it. It was the worst thing. But it was not the only thing.<<

Sticking to the facts is the only way to avoid playing into the hands of people such as David Irving. >>Untruth always matters,<< she writes, >>and not just because it is unnecessary to lie when so much terrible truth is available. Every falsification, every error, every slick rewrite job is an advantage to the neo-Nazis.<<

She is puzzled, too, by what she perceives as a reluctance to confront the truth by those who seem to have the most interest in it:

>>Why on earth have all these people who made Auschwitz into a sacred cow ... why didn't they go and look at Treblinka which was an extermination camp? It was possible. There were survivors alive when all this started. Nobody did. It was an almost pathological concentration on this one place. A terrible place – but it was not an extermination camp.<<

Then she sighs; and suddenly the fierceness leaves her. >>The distinctions are important,<< she says more quietly.

>>But – death is death.<<

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## **And now, literally, off for a brief look into the climate change debate...**

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### **George Monbiot: Looking for sensation and ignoring facts:**

#### **The climate documentary to be shown by the ABC is bad science.**

##### ***The Age/Guardian, May 25 2007***

Were it not for dissent, science, like politics, would have stayed in the dark ages. All the great heroes of the discipline – Galileo, Newton, Darwin, Einstein – took tremendous risks in confronting mainstream opinion. Today's crank has often proved to be tomorrow's visionary.

But the syllogism does not apply. Being a crank does not automatically make you a visionary. But the point is often confused. Professor David Bellamy, for example, while making the incorrect claim that wind farms do not have >>any measurable effects<< on total emissions of carbon dioxide, has compared himself with Galileo.

The problem with *The Great Global Warming Swindle*, which caused a sensation when it was broadcast in Britain earlier this year and which the ABC plans to screen, is that to make its

case it relies not on future visionaries, but on people whose findings have already been proved wrong. The implications could not be graver. Thousands have been misled into believing there is no problem to address.

The film's main contention is that the increase in global temperatures is caused not by rising greenhouse gases, but by changes in the activity of the sun. It is built around the discovery in 1991 by the Danish atmospheric physicist Dr Eigil Friis-Christensen that recent temperature variations on Earth are in >>strikingly good agreement<< with the length of the cycle of sunspots.

Unfortunately, he found nothing of the kind. A paper published in the journal *Eos* in 2004 reveals that the >>agreement<< was the result of >>incorrect handling of the physical data<<.

The real data for recent years show the opposite: that the length of the sunspot cycle has declined, while temperatures have risen. When this error was exposed, Friis-Christensen and his co-author published a new paper, purporting to produce similar results. But this too turned out to be an artifact of mistakes.

So Friis-Christensen and another author developed yet another means of demonstrating the sun is responsible, claiming to have discovered a remarkable agreement between cosmic radiation influenced by the sun and global cloud cover. This is the mechanism the film proposes for global warming.

But, yet again, the method was exposed as faulty. They had been using satellite data that did not in fact measure global cloud cover. A paper in the *Journal of Atmospheric and Solar-Terrestrial Physics* shows that, when the right data are used, a correlation is not found.

Friis-Christensen's co-author, Hendrik Svensmark, published a paper last year purporting to show that cosmic rays could form tiny particles in the atmosphere. Accompanying the paper was a press release that went way beyond the findings reported in the paper, claiming it showed that both past and present climate events are the result of cosmic rays.

As Dr Gavin Schmidt of NASA has shown on [www.real.climate.org](http://www.real.climate.org)

five missing steps would have to be taken to justify the wild claims in the press release. >>We've often criticized press releases that we felt gave misleading impressions of the underlying work,<< Schmidt says, >>but this example is by far the most blatant extrapolation beyond reasonableness that we have seen<< None of this seems to have troubled the program-makers, who report the cosmic ray theory as it trounces all competing explanations.

The film also maintains that manmade global warming is disproved by conflicting temperature data. Professor John Christy speaks about the discrepancy he discovered between temperatures at the Earth's surface and temperatures in the troposphere – or lower atmosphere. But the program fails to

mention that in 2005 his data were proven wrong, by three papers in *Science* magazine.

Christy himself admitted last year he was mistaken. He was one of the authors of a paper that states the opposite of what he says in the film.

Until recently, when found to be wrong, scientists went back to their labs to start again. Now, emboldened by the denial industry, some of them shriek >> censorship<<. This is an example of manufactured victimhood. If you demonstrate someone is wrong, you are now deemed to be silencing him.

But there is one scientist in the film whose work has not been debunked: the oceanographer Carl Wunsch. He appears to support the idea that increasing carbon dioxide is not responsible for rising global temperatures. Wunsch says he was >> completely misrepresented<< by the program, and >> totally misled<< by the people who made it.

This is a familiar story to those who have followed the career of the director Martin Durkin. In 1998, the British Independent Television Commission found that, when making a similar series, he had >> misled<< his interviewees about >> the content and purpose of the programs<<. Their views had been >> distorted through selective editing<<. Channel Four had to apologise.

Cherry-pick your results, choose work already discredited, and anything and everything becomes true. The twin towers were brought down by controlled explosions; homeopathy works; black people are less intelligent than white people; species came about through intelligent design. You can find lines of evidence that appear to support all these contentions, and, in most cases, professors who will speak up in their favour. But this does not mean that any of them are correct.

You can sustain a belief in these propositions only by ignoring the overwhelming body of contradictory data. To form a balanced, scientific view, you have to consider all the evidence, on both sides.

But for the film's commissioners, all that counts is the sensation.

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## A response from Emeritus Professor Lance Endersbee, Australia

- 26 March 2007

### Note for Colleagues:

The accompanying paper, *Climate Change is Nothing New*, is being published in the March 2007 issue of the journal, *New Concepts in Global Tectonics* – [www.ncgt.org](http://www.ncgt.org)

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I was invited to prepare the paper by the Editor as a scientific response to the IPCC report, *Climate Change 2007: The Physical Science Basis, Summary for Policy Makers*, issued by the Intergovernmental Panel on Climate Change, February 2007. The paper can also be regarded as a response to the movie by Al Gore, and to the report on carbon trading by the London financier, Sir Nicholas Stern.

The key points of the paper are:-

**1.** The Earth, the Sun, and indeed the Cosmos, comprise an inter-acting, dynamic, and evolving system. It is all in a state of continuing change. There is no steady state. In contrast, the IPCC assumes that the Earth was in a steady state until 250 years ago, which was upset by Man through increasing use of carbon fuels, and that led to atmospheric changes and consequential global warming.

**2.** In geological time, the climate of the Earth has been influenced by the immediate environment of the solar system as it travels through our Milky Way Galaxy. There were times when the solar system was enveloped in vast clouds of gas

and dust, causing extreme cooling on Earth, and ice ages lasting for millions of years. In recent times the solar system has been travelling through space that is virtually empty, enabling a benign climate in which our civilization has flourished.

**3.** The Sun is the dominating influence on the climate of the Earth. That simple fact is not recognised by IPCC. The Sun is a churning, quivering body of hot plasma, generating intense electromagnetic fields in space that envelop the Earth. The electromagnetic behaviour of the Sun dominates and determines the electromagnetic and geotectonic response of the Earth, and thereby climate.

**4.** The climate of the earth has always changed. There have been times lasting centuries when the Earth was warmer or colder than now. The period of 500 years from 800 to 1300 AD was warmer. It brought prosperity to Europe. It is known as the *Medieval Warm Period*. Many great cathedrals were built, the Vikings discovered a verdant land they called Greenland, and there were vineyards in England. After that, for the next 450 years from 1300 to 1750 AD, Europe experienced a progressively colder climate. It is known as the *Little Ice Age*. It was especially cold for 100 years from 1600 to 1700 AD, when there was famine and starvation in the northern parts of Europe. In London, the River Thames often froze in winter.

5. A key part of the IPCC report is the presentation of evidence of parallel increases in both global temperatures and levels of carbon dioxide in the atmosphere. It is claimed by IPCC that the increased carbon dioxide emitted by Man is causing global warming. In my paper it is shown that the cause and effect relation is exactly the opposite; that natural global warming has caused an increase in the level of carbon dioxide in the atmosphere, simply because of the reduction in solubility of carbon dioxide in sea water with increasing sea temperatures.

6. It is the vast surface area of the oceans that determines the interchange of gases between the oceans and the atmosphere. The oceans breathe carbon dioxide and methane in and out with the seasons, and the oceans release carbon dioxide and methane with the natural warming caused by the Sun. If in the future there is a significant decrease in the electromagnetic radiation from the Sun, the Earth will cool down, and the levels of carbon dioxide and methane in the atmosphere will then decline.

7. IPCC refers to a rise in sea levels over the past century as evidence of global warming caused by Man. I show that the rise is due to the great exploitation of non-rechargeable groundwater over the past century which has led to a net addition to the hydrosphere, and thereby, the oceans.

8. Air pollution and global warming are scientifically separate issues. Global warming is natural and global. Atmospheric pollution is man-made and mostly close to the sources of emission. The IPCC have locked themselves into a scientifically untenable position by interweaving air pollution and global warming.

9. The deadly pollution of dust, acid gases, and water vapour entering the atmosphere in many cities of the world should be the focus of action. A large number of cities are most unhealthy places, with a lower expectation of life. The problems are not global but local. The correction of the problems must be industry and city-centred.

10. Carbon dioxide is not a pollutant, it is essential to all life. There is no need for carbon trading or geosequestration. The concept of carbon trading has been advocated by IPCC, and by many governments signing the Kyoto agreement, and is being

welcomed by the financial community. But carbon trading has not arisen from the normal operation of the market. It is the result of fears about global warming created by IPCC and others. It thereby presents risks to investors. If it comes to be recognised that global warming has a natural cause, and the fears subside, the value of carbon credits will then drop to zero, and the market in carbon trading will collapse.

The paper and this memorandum are circulated for your information.

Lance Endersbee

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### CLIMATE CHANGE IS NOTHING NEW

**Abstract:** Since 1750 the electromagnetic radiation of the Sun has increased significantly, as indicated by the sunspot record. This increased electromagnetic radiation is considered by the author and others to be the real cause of global warming. The examination of the annual temperature records of the northern and southern hemispheres shows a sharp change and major increases since 1978, especially in the northern hemisphere. This is the so-called hockey stick effect, which the author concludes is not due to the influence of Man, and probably due to a change in the geothermal regime of heat flow from the fracture zones in the floor of the northern oceans. There is some confirmation of this in recent sea floor explorations. The role of atmospheric carbon dioxide and methane is considered in relation to claims that emissions by Man are causing global warming. It is shown that the increased warming is due to the Sun, and that the consequent warming of the oceans is causing the ex-solution of carbon dioxide and methane from the oceans, simply due to the decreasing solubility of these gases in sea water with increasing ocean temperatures. The extensive exploitation of groundwater around the world over the past century, at rates far in excess of possible recharge, has created a net addition to the hydrosphere commensurate with the apparent rise in sea levels over the past century. There is deadly pollution in the atmosphere over many world cities and industrial regions. These are local and regional matters, and should be corrected at the sources of pollution. Air pollution and global warming are scientifically separate matters.

**Keywords:** *climate, sunspots, carbon dioxide, methane, geothermal, cosmic rays*

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## Phillip Adams: Free Expression

*The Weekend Australian Magazine, May 26-27 2007*

Let the record show that I'm not in the David Flint camp when it comes to Alan Jones. And that record includes countless columns during the >>cash for comment<< scandals, an open letter to Alan following his London embarrassment – and my book *Emperors of the Air*, which provided close-up observations of shock-jockery at Sydney radio station 2UE, and in particular of Jones, John Laws and Stan Zemanek. I've also praised, both in broadcast and in print, Chris Masters' masterful *Jonestown*.

I loathe shock jocks, and I detest the way locals mimic and plagiarise the bigotries and production tricks of Rush Limbaugh – the US source of such Laws phrases as >>femi-nazis<< and that >>keeping the dream alive<< twaddle. For me, Zemanek represents the nadir of Australian radio – and I've been enraged by much of Jones's output.

While Jones's punishment last month for naming a juvenile witness in a murder trial may turn down his volume at least a little, I'm relieved the criminal conviction wasn't a consequence of his more notorious anti-Lebanese commentary. There are those who'd throw the book at Jones over Cronulla. I'm not one of them.

I was deeply troubled by the campaign to >>turbo-charge<< racial vilification laws with criminal sanctions. My opposition to this crusade cost me many friends on the Left – and within ethnic organizations. I found myself being booed at a multicultural conference in Hobart for urging caution on the issue and, even worse, was applauded by racists on their hate pages.

But the points I tried to make remain valid.

**First**, how could I support criminal sanctions in anti-vilification legislation while, as a member of Amnesty International, protesting at foreign governments imprisoning people for simply saying things? Amnesty fights to have non-violent dissidents released from prisons all over the world – yet Australians were trying to jail people not for actions but for words. Appalling, even monstrous words. But only words.

**[FT comments:** Amnesty International refuses to support imprisoned Revisionists who refuse to believe in the >Holocaust-Shoah< because such dissident voices are deemed to be >>violent Nazis<<.]

**Second**, remember Brer Rabbit and the Briar Patch? Many bigots – particularly anti-Semites such as the Adelaide

Institute's Fredrick Töben – would see their day in court as a personal triumph, a chance to spread their toxic sludge from the dock and witness stand throughout mainstream media. An opportunity for martyrdom.

And the shock jocks? Laws, Jones, Howard Sattler and Derryn Hinch seem to thrive on official complaints, defamation actions or sundry legal threats, wearing them as badges of honour, proof of their spurious >>pro-battler<< status. Why give them further opportunity for self-agrandisement?

**[FT comments:** Poor Phillip. He fails to realize that sometimes there are individuals who are merely concerned individuals who have just had enough of being pushed about within society.]

**Third**, where is there a scintilla of evidence that bottling up hatred or censoring bigotry does the slightest good? It seems to me then – and now – that the opposite may be true. Attempting to silence racists only intensifies their venom. For example, I'd always opposed the bans on the noxious Holocaust denier David Irving, who used Australia's refusal to grant him a visa as further evidence of a global Jewish conspiracy – and as advertising for his books, his tapes, his website. Better to have the neo-Nazis and historical revisionists on the public record, so that they can be refuted. Censorship always, always fails.

Case in point. John Howard was notorious for his opposition to Asian migration. As a member of Malcolm Fraser's cabinet he and he alone opposed admitting Vietnamese refugees whose affiliation to Australia made them especially vulnerable for retribution. So it was hardly a surprise when, in 1988, Howard attacked Asian immigration during a Laws interview. That cost Howard the Liberal leadership.

As PM he got his own back by calling for an end to >>political correctness<< and the bigots emerged from the sewers more rabid than ever. On a large scale, the ethnic and religious tensions bottled up by Tito or Saddam did not dissipate – as >>ethnic cleansing<< in the former Yugoslavia and the civil war in Iraq so bloodily demonstrate.

How to deal with shock jocks? Turn the dial. Complain to their advertisers. Or have the authorities fine the station.

Jones's case is the more complex because he isn't invariably a knee-jerk reactionary. Though his >>Jo for Canberra<< crusade was ridiculous, he was resolute in his support for Lindy Chamberlain, and I had some sympathy for his relentless and ultimately successful attack on the ID card. Although wrongheaded with his >>turn the rivers inland<< campaign, Jones got steamed up over our water crisis long before his friend the PM seemed to notice it. And while iffy on climate change, Jones is paradoxically a warrior against the reckless expansion of Australia's coal mining industry.

It's easy to support freedom of expression for those who share our views. Tougher to support it for those we don't like, whether a ratbag mufti, a Holocaust denier or a snarling shock jock. They're the price we pay for free speech.

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### **Fredrick Töben responds**

**Adelaide 31 May 2007**

Phillip, me old mate! Someone just forwarded me your *Weekend Australian Magazine* column of May 26-27, 2007. What would you do if you didn't have me to insult? You'd have to find another enemy image –

Perhaps before you permanently close your eyes you would like to consider what I talk about without blocking your critical faculties with those stupid and rather infantile concepts - >toxic sludge< and >antisemitism<.

After all, truth is a far more beautiful and life-affirming concept than the ones you use, though I note you did use the other usual ones later on when gloating over David Irving's failure to get an Australian visa. But please note that Irving still believes in >limited gassings< while I say this matter has not been proven and is, in fact, a lie!

Now, send a copy of this letter to any court, better still, take it personally to a police station and start an action against me for having contravened the Federal Court gag order that prohibits me from saying such a thing.

Your triumphalism in your column is so hollow-sounding, almost as if you are still in your midlife crisis, as if you need viagra now. I say this because I sometimes listen to your program and note a lot of slobbering and heavy breathing on your part coming through as you talk with your guests. From memory I do not recall that you are hooked on the spirit bottle as Hitchens is now.

Do you like the formulation that I used for the Teheran Conference in December 2006:

**>The Holocaust-Shoah has no reality in space and time, only in memory<.**

I have a faint suspicion that you actually know the >gassing story< is a gigantic lie. After all, with your known critical attitude, why do you not ask for physical evidence? Why not ask the simple question of those who assert the gassings were a fact: >Show me or draw me the Auschwitz homicidal gas chamber?<

And then there is the German editor of *Der Spiegel*, Fritjof Meyer, who in 2003 claimed, like Gitta Sereny, that Auschwitz was not an extermination camp. Did you ever follow that up?

Never mind, Phillip, like you I will defend your right to discredit yourself by abusing those whose beliefs you hate with a vengeance. I am lucky that I cannot hate: I was not raised in the Jewish, Christian or Muslim faith. Also, I never stooped to intellectual hubris and nihilism either, as you do. Do you still claim that you are an atheist and a Judeophile and a believer in the >Holocaust-Shoah<?

A personal note – when you write your columns, do you still lie on your back on the floor and dictate the guff to a machine or to whoever bothers being next to you?

What a pity you still hate Germans. I wonder what human qualities you don't like about them, and thus have this pathological and feverish need to pull out that >Holocaust-Shoah< lie in order to get your high and deflect whatever you don't like about Germans.

Finally, I wonder when you'll realize that the left-right divide is quite limiting because there are those who are at home in both camps. There are larger truths waiting to be discovered when you transcend this divide – and that is exhilarating because it liberates you from your own ignorance AND prejudice. Perhaps your total embrace of >global warming< is the synthesis of your former beliefs, whereby you hope to retain a belief in internationalism. It would still enable you to embrace ideals/principles such as Landrights-apology for Aboriginals, as I do – you know, Blut und Boden, and all that stuff!

Until later

Fredrick Töben [toben@adelaideinstitute.org](mailto:toben@adelaideinstitute.org)