MINORITY REPORT – SENATORS ALSTON AND WATSON

With Australia still suffering from the deepest economic recession in 60 years, and with unemployment over ten per cent, the last thing which business needs is policies which undermine the capacity of employers to expand their enterprises and increase employment.

Yet the Government's proposed Superannuation Guarantee Charge, or levy (SGL) regime will add at least an extra $2 billion a year to labour costs irrespective of the state of the international or the domestic economy, let alone the plight of individual employers. Even the hapless John Kerin, when Treasurer, was forced to concede that the Government's superannuation proposals were 'basically an additional cost'.

Even ardent advocates of compulsory superannuation such as National Mutual are concerned that 'the legislated contribution levels make no allowance for the capacity of various employers and industry to meet the requirements. The legislated approach assumes everyone can pay higher rates at the same point in time.'

The impact on small business, where the great bulk of the burden will undoubtedly fall, is particularly severe. The Victorian Automobile Chamber of Commerce estimates that for an average award employee, total on-costs will rise from 31.5 per cent to 37 per cent of labour costs and even more for many staff not covered by awards.

Like the Training Guarantee Levy (TGL), the SGL is a de facto payroll or employment tax imposed regardless of profitability but, unlike the TGL, it offers no prospect of productivity improvements.

Since the SGL is being imposed as a legislative obligation, there will not be any opportunity for employers to bargain any offsetting productivity increases with their workforce. At a time of very weak demand, firms will have great difficulty in absorbing the costs or passing them on.

There can be little doubt that most Australians aspire to a higher level of retirement income than that enjoyed by the current generation. After eight years in office, the present Federal Government has finally managed to achieve an age pension equivalent to 25 per cent of AWE, but the capacity to make significant future improvements will be critically affected by the health of the national economy. Already more than three-quarters of persons of age-pension age receive at least a part pension – at a cost to revenue of approximately $12 billion and this amount will undoubtedly increase with the ageing of the population, unless there are a number of significant structural changes, such as the gradual raising of the age-pension age for women, the abolition of compulsory retirement ages and the easing of pensioner poverty traps.

But the bottom line is that a country simply cannot achieve permanent increases in national savings and retirement incomes unless they are financed by faster economic

growth, higher levels of productivity and rising levels of disposable income. These are not simply retirement income issues, they are national economic issues.

Two major arguments constantly advanced by the Government to justify a compulsory system are the need to boost national savings and the need to curb the rising cost of age pensions.

Savings

There is undoubtedly an urgent need to boost national savings. Household savings have more than halved – from a peak of about 15 per cent of disposable income in the mid 1970s to just over six per cent in 1990-91. But it by no means follows that forcing workers to go without wage increases will help the cause. As overseas experience has shown, unless there is rising output and productivity, compulsory savings in one form will simply lead to a run-down in savings elsewhere.

Treasury is particularly conscious of this switching effect – the most that it claims in favour of the SGL is that:

> Higher superannuation savings would not be fully offset by reductions in other savings because many employees have equivalent levels of non-superannuation savings and superannuation savings are not a perfect substitute for other savings ... Some substitution ... can be expected, however, ... there is unlikely to be complete substitution. No estimate of the likely magnitude of this effect is available.

In other words, there is likely to be a very considerable switching effect, not a perfect switch by any means but a very high level of switching. Therefore it cannot be said with any degree of confidence that there will be any particular level of increase in savings as a result of the SGL regime.

As Paddy McGuinness has cogently argued:

> The weight of economic evidence is that imposing compulsory superannuation on individuals does not increase total savings. It simply causes people to save less of their residual income, their take home pay.

Or worse still, to go further into debt.

Professor John Freebairn is right:

> The key to providing high income in retirement is the pursuit of policies promoting high economic growth.

Even prominent advocates of government intervention, such as Ray Block, who gave evidence to the Committee on behalf of Committee for the Economic Development of Australia (CEDA), admitted that 'we realise that the increase in national savings will only be marginal'.

According to Peter Griffin, Managing Director of Rothschilds, a compulsory system is unlikely to increase national saving and will lead to lower returns to savers as well as a

big distortion in the allocation of investment capital and the workings of the capital market.

The key to national savings is to build a sound economy and provide incentives to save. A leading retirement income commentator, Daryl Dixon, told the Committee '... the key to increasing national savings is to give people incentive to save' and Professor Julian Disney, a member of EPAC, said '... if one is concerned about national savings, it seems to me self-evident that the best way of encouraging savings is to provide a savings incentive for the widest range of purposes.'

Despite being required to make some last minute attempts to conjure up savings scenarios to repair the political damage to the Government resulting from its professions of profound ignorance to the Committee, it is clear that Treasury remains deeply sceptical concerning a proposal about which it was not consulted and to which it had no policy input. It was simply required to take on board an Accord deal and massage it through the Parliament. Unfortunately, the Government's strategy backfired when the nakedness of the policy justification for the legislation became clear.

The crucial issue then is national savings, that is, how much the country as a whole saves, not the savings of any particular group. The OECD's most recent comparison of savings patterns shows Australia's national savings averaged 20 per cent of national income throughout the 1980s, down from around 24 per cent in the 1960s and 1970s. As with most other industrialised countries, the 1970s decline in national saving in Australia was due mostly to the deterioration of public sector saving. Australia's performance places it about mid field in the OECD. The US saves only 16 per cent of national income and Britain 17 per cent, with Germany, France, Italy, Canada and New Zealand all at similar levels to Australia. Switzerland, Finland and Norway have higher savings ratios than other European countries but all are well under 30 per cent. Japan is the OECD exception with 32 per cent of national income saved.

For many years, Australians have spent more on investment than they have been able to save (the savings and investment gap). This gap between domestic savings and investment has meant a heavy dependence on foreign equity and overseas debt to maintain economic growth. The result has been a large (and at times explosive) growth in Australia's overseas deficit and foreign debt. Interest payments overseas are now equal to $1.2 billion per month: Australia needs to spend one-fifth of its export income to service foreign obligations, thus limiting the growth in national living standards.

Further, Australia's savings problem has been accentuated in recent years by a combination of structural and cyclical factors. The interaction of high inflation and penal rates of personal taxation on interest income has eroded the attractiveness of traditional forms of saving (the structural disincentive to save). The recession has also forced many Australians, particularly those unemployed, to draw down their savings to maintain their standard of living (the cyclical disincentive to save). Corporate sector savings and the net fiscal position of Government have also deteriorated as a result of the recession (an adverse cyclical impact on saving). A series of tax reforms and the use of tight monetary policy to squeeze inflation out of the system have failed to offset these structural and cyclical disincentives to save.

However, there is no evidence that the Government's superannuation initiatives have produced, or will produce, a large net increase in national savings. Indeed, it is possible that the Government's initiatives are exacerbating a major shift in savings away from the traditional retail financial institutions (the substitution effect). This structural shift of savings from retail financial institutions to superannuation funds will have profound and largely unforeseen consequences for the composition of investment flows. Compulsory superannuation would hasten the process. By allowing major taxation concessions for compulsory superannuation, national savings may actually decline.

Personal retail deposits have traditionally formed the funding base for mortgage loans for new homes and loans to farmers and small and medium business – the engine of Australian economic growth and job creation. Superannuation funds, on the other hand, generate long-term retirement income by placing members' contributions in investments such as shares in Australia's top 100 companies, government securities, commercial property and overseas equities. Retail financial institutions can raise deposit rates to attract savings or gain access to higher cost funds through the commercial market, but this will mean higher transaction costs and interest rates on loans to their customers: home owners, farmers and businesses. The commercial market is more volatile than the retail market and some financial institutions, in particular non-bank financial institutions, may struggle to attract funds in a tight market.

Given the growing asset base of superannuation funds and capital shortage in key areas of investment, some may argue for investment controls on superannuation funds. This would further distort the savings-investment equation, increasing the costs of savings for all Australians. A better approach would be to provide more equitable tax treatment (economic efficiency) and thus encourage all forms of savings.

There are no short cuts to economic prosperity. Nor is there any magic retirement incomes pudding whereby increasing levels of retirement income can be forced on employees or encouraged by taxpayers irrespective of capacity to pay.

This is recognised by all the major institutions. The National Mutual Life has urged the government to deregulate the labour market, deregulate and privatise key areas of the economy, including transportation, communications and government business enterprises, and direct fiscal stimulus toward encouraging savings and long term private sector investment.

The Coalition supports, and indeed has made the running on, many of these vital national reforms.

With the nation experiencing a protracted economic crisis of Argentinian dimensions, more than ever it is vital to take a leaf out of the Japanese post-war rebuilding book and start to engender a national savings culture.

This will not come about via a system of compulsory superannuation which pretends to put all the burden on employers. Inevitably many employees will take the view that their superannuation needs are being taken care of by others and that there is no need for them to make any further provision for their retirement. This lowest common denominator approach is quite the opposite to a savings culture. Indeed, once compulsory

superannuation is firmly entrenched it will not be long before politicians are being urged to take the view that tax concessions – currently around $3.5 billion and set to at least double by the turn of the century – could be better used elsewhere. Indeed, there are a number of senior government figures who already take this view.

Affordability

Perhaps the most damning indictment of the SGL proposals is their impact on employment. It is quite fatuous, and indeed disingenuous, to pretend, as the Government's principal spokesman on superannuation, Senator McMullan did recently that '... the Levy will not be an additional cost. In the initial stages at least most [employers] would already pay out the required amount of superannuation ...'.

The legislation does not just tinker around the edges. It will involve substantial cost increases to provide superannuation cover for:

- possibly 800 000 non-managerial non award private sector wage and salary earners;
- possibly 50 000-100 000 public sector employees currently lacking effective coverage, for example due to poor vesting; and
- possibly 650 000 employees of non complying employers (at least 600 000 in the private sector).

These new recruits constitute 25-30 per cent of private sector employment and around five per cent in the public sector.

Overwhelmingly, they are in small businesses. Some are young professionals who consciously prefer not to save via superannuation until much closer to retirement, but the great bulk are employees earning less than average weekly earnings.

The fact is that many firms are not even paying the first three per cent of award superannuation. Senator Cook, Minister for Industrial Relations, has estimated that the outstanding amount is around $700 million a year. The main reason, according to his own Department, is that most employers simply cannot afford to do so.

As Treasury made clear in its evidence, if the full unit cost impact is to be borne by employers, there will be up to 45 000 jobs lost over the next two years and up to 100 000 jobs lost over the next five years.

The only way to avoid such an outcome is to discount any wage increases by around 1.5 per cent for the effect of the SGL. But this the Government steadfastly refuses to do. Instead, it supports an ACTU wages claim for an increase of around 4.5 per cent when Australia's underlying inflation rate is almost half that figure, and then piously promises that if Australia's inflation rate gets significantly out of line with that of our major trading partners, it will somehow depart from a specified legislated timetable for annual increases in contributions to the year 2000. In this regard, the following extract from the

Committee's *Hansard* is most instructive (note that Dr Preston referred to in the quotation is Deputy Secretary of the Commonwealth Treasury):

At Expense of Wage Increases

Senator Alston: Your submission states: 'The effect on employers net savings will be influenced by the extent to which increases in employer superannuation contributions are taken into account in wage negotiations. If increases in contributions do not result in any change in employee's total remuneration – which you say elsewhere must include superannuation – employer's net savings positions should not change significantly.'

In other words the SGL will be at the expense of wage increases. That is what it is saying, is it not?

Dr Preston: It is saying that wage increases will be lower that they would otherwise have been.

Senator Alston: And that if it does not involve any net increase in the cost burden to employers, it must be at the expense of wage increases, must it not?

Dr Preston: Yes.[1]

Not only does this defy political reality but it also contains the seeds of an economic and social disaster waiting to happen. If Australia is to become truly competitive as quickly as possible, it surely must do everything possible to lower its export cost structure. Once the fruits of increased exports start to flow through, there will be a sound case for employees being entitled to share in the increased profits. But to ignore actual costs and wait perhaps several years at least before making some subjective comparative judgements about international inflation rates will only ensure that our economic predicament will worsen.

In addition to the substantial evidence placed before the Committee which indicates that widespread unemployment will be the result of the SGL, Opposition Senators and Members have had access to countless individual cases of how small businesses employing between 40 to 50 people will have no alternative than to reduce staff levels. It is a logical equation that a three per cent increase in labour costs equals retrenching one worker in a workplace that employs 30 or so persons.

In recent weeks, the Government has claimed that the economy will be able to afford both the increased costs of the SGL – at least several billion dollars in the first year – and a wages claim well in excess of inflation, because the *One Nation Statement* asserts that Australia is suddenly poised to achieve unprecedented growth rates and productivity increases.

1 SG evidence, p 2102.

These utterly unlikely and intuitively implausible predictions have been greeted with a great deal of scepticism on all sides and the recent downward revision of the expected 1992-93 growth rate from 4.75 per cent to four per cent by the Government's own economic adviser, the Joint Economic Forecasters Group, is simply official confirmation that these targets are absurdly optimistic.

Australian business is in no position to afford a new multi-billion dollar payroll tax, especially one which is scheduled in most cases to treble or even quadruple within eight years. Even if existing double-dipping loopholes are closed, it will be of little consolation to taxpayers if a declining pension bill is more than offset by the rising costs of the national dole cheque. More importantly, however, the dangers to the social fabric of high and prolonged unemployment are already apparent world-wide. With unemployment levels on present policy certain to stay around ten per cent for years to come and even the Government only claiming a marginal improvement over the next few years, it will be little short of lunacy to introduce a massive new cost burden on employers – with unions saying only that the cost will be 'taken into account' in further wage negotiations. History over the last decade offers no basis for any confidence and any reliance at all could be placed in such a vague and essentially meaningless formula.

Who Pays?

The Employer

Unlike every other compulsory system in the world, the SGL legislation puts the burden entirely on employers, many of whom will be expected to find 12 per cent within eight years. The Government's timetable ostensibly requires employers to pay nine per cent by the year 2000 but it is clear that they will be expected to pay the last three per cent as well – the Government has said only that '... it will give consideration to using employee contributions and tax cuts.'

This 'employer pays' approach will inevitably encourage many employees to take the view that superannuation is no longer their responsibility, thereby ensuring a lowest common denominator outcome for retirement incomes.

Even the Australian Chamber of Manufactures, which has been generally supportive of award superannuation, has argued that '... mandatory employer funded superannuation in the absence of wage offsets is both inequitable and counter productive'.

Other Wage and Salary Earners

If the Government pursues its pretence that the cost of the SGL will be funded by general reductions in wage increases, this clearly means that those already in receipt of the prescribed level of superannuation will be required to go without a wage rise to cross-subsidise those without superannuation coverage.

Retirement Incomes System in Twenty-One Countries Contributions & Benefits		
	Data from *Super System Survey* Compulsory Contributions for Retirement	Retirement Income Stream
Austria	Employer 12.55 per cent Employee 10.25 per cent	40-73 per cent of actual final earnings
Belgium	Employer 8.86 per cent Employee 7.50 per cent	60 per cent of career average earnings for single person
France	Employer 8.20 per cent min Employee 7.60 per cent min	40-75 per cent of career earnings
Germany	Employer 9.35 per cent Employee 9.35 per cent	40-45 per cent of final earnings
Italy	Employer 14.80 per cent to 30.43 per cent Employee 6.1 per cent to 10.79 per cent	80 per cent of final career earnings
Japan	Employer 7.25 per cent Employee 7.25 per cent	Flat social security benefit plus an earnings related benefit
Luxembourg	Employer 8 per cent Employee 8 per cent	60-70 per cent of final pay
Singapore	Employer 17.5 per cent Employee 22.5 per cent	Privately funded end benefits a function of contributions
Spain	Employer 24.0 per cent Employee 21.8 per cent (including sickness, medical and family allowances etc)	76-85 per cent of final earnings
USA	Employer 6.2 per cent Employee 6.2 per cent	25-60 per cent of assessable earnings

Overseas Comparisons

The Committee's background paper *Super System Survey* revealed that a significant number of countries maintain a retirement income system which ensures that the incidence of contribution falls more equitably on both employers and employees than is proposed under the SGL. The following countries have equal or roughly equal employer/employee contributions. However, in making comparisons or drawing conclusions, one should be careful to establish whether the country under survey has an integrated social security system which may include unemployment, health, aged care and retirement provisions.

In contrast, the SGL only incorporates a nine per cent employer contribution and does not **guarantee** that any employee contribution will be made. As the pronouncement of the Government clearly indicate that employees willnot forego future wage increases to reach the final target, one can only conclude that Australia will have a 100 per cent employer funded SGL system.

Inflation and Unemployment

Access Economics and the CAI have predicted that the Government's proposals will lead to a five per cent increase in inflation and the loss of at least 60 000 jobs through the 90s. The Treasury figures make it clear that, if employers bear the full burden, up to 100 000 jobs will be lost over the next five years. The only way such a scheme could possibly succeed without putting thousands out of work and refuelling inflation would be for the increases to be at the expense of wage rises. In other words, to require Australian workers to forego significant wage increases over the next decade in order to disqualify themselves from the age pension. The more likely outcome is that the cost of superannuation will be met from funds which would otherwise have been used by businesses to reinvest, generate new jobs and expand activities.

Some Real Losers

Part-time and Casual Employees

Those who will do worst out of compulsory superannuation are part-time and casual employees, more than two million of whom are women. Not only will they be effectively forced to forego very substantial wage rises but the amount set aside for them in the name of superannuation will be decimated by administration, insurance and taxation charges, leaving them with a small cash pittance and no retirement income.

The retail industry, which is the largest employer of staff in the private sector, and is traditionally a major employer of part-time and casual employees, has made it clear that the legislation will not only be administratively complex but will lead to immediate job reductions, particularly in the depths of the current recession.

The Retailers Council of Australia is also concerned that to allow the levy to operate in conjunction with the existing award system will expose employers to a situation of double jeopardy, particularly because of the vast differences in award superannuation provisions compared to the standard levy requirement. This is particularly evident with the different

qualifying periods which vary between States, but in most instances, require a person to be employed for at least six months before payments are made, usually retrospectively. This contrasts with the SGL legislation, which will require payments for all part-time and casual employees from day one, even though major retailers such as Woolworths have a staff turnover of 30 per cent a year.

According to Coles Myer, the country's largest private employer, with 135 000 employees, of whom 32 per cent are regular casuals under the age of 21:

> Not only would there be a significant administration burden for both the company and funds if such employees are to receive employer funded occupational superannuation, but there would be no real gain for the individual in terms of retirement income.

Women

As the SGL only applies to those in the paid workforce, some two million non-working women are denied access to the alleged benefits, despite the fact that they not only live longer than men but they are particularly financially vulnerable in their retirement years in the event of early widowhood or divorce.

Timing

From the time the Bills were first introduced into Parliament on 2 April 1992, the Government has been insisting on a 1 July 1992 start up date. This is despite the fact that there has been no clamour for such a date from any organisation except the ACTU. On the contrary, a wide range of community groups and organisations have repeatedly requested the Government to at least defer the legislation and convene a national conference to be attended by all interested parties in order to develop a long term viable and effective retirement incomes policy for Australia. The Coalition would welcome such an initiative and would be keen to play an active and constructive role in any such discussions.

Not only have serious administrative deficiencies and technical problems been identified, but the whole premise of a compulsory superannuation scheme has been severely undermined by the Government's own financial advisers and the Department of the Treasury whose senior officials have cast very serious doubts on the likelihood that the Bill will achieve its professed objectives, particularly:

- the need to boost national savings; and

- the need to arrest the rising cost of age pensions.

During the course of the hearings it became absolutely clear that, whilst it is highly desirable that a coherent and effective system of superannuation should be in place sooner rather than later, there is absolutely no magic about a 1 July starting date.

Whilst the Government is to be commended for its willingness to take pre-emptive steps to avert pressure on the welfare system that may well arise as a result of the post-war baby boom generation reaching retirement age over the next 15-20 years, the imperative

is to put in place a workable system which enjoys widespread community support, rather than rush to entrench a flawed system.

The evidence presented to the Committee over recent months makes it plain that the Bill enjoys support from the ACTU and some elements of the life insurance industry and superannuation industries. Otherwise it is strenuously opposed by almost every other major group or organisation in the country, including the business Council of Australia, the Confederation of Australian Industry, the Australian Small Business Association, the Retailers Council of Australia, the Australian Council of Social Services, the Australian Federation of Consumer Organisations and the Womens Economic Think Tank.

It is therefore incomprehensible that, instead of accepting the recommendations of the IRC in its April 1991 national wage case to convene a national conference on retirement incomes policy, the Government has steadfastly refused to debate any of the major issues in the public domain.

It surely recognises that its complex and confusing approach to the tax treatment of employee contributions is a shambles. It surely knows that its current policy of encouraging an early retirement age of 55 years is a major reason why more that three-quarters of persons of age-pension age receive at least a part pension. It must be acutely aware that unless the preservation age is gradually raised to at least 60 years, double dipping will undermine any serious attempts to reduce Australia's pension bill.

Even its Accord partner, the ACTU, has acknowledged the regressive nature of the contributions tax and the need for a universal rebates approach. The mindless complexities of the reasonable benefits limit are yet another constant source of industry concern and a major factor in higher than necessary administration charges.

Yet in the face of all these uncertainties and the need for further significant changes, the Government is blindly determined to impose a whole new layer of compulsion on a profoundly unstable and ineffective system.

Why is the Government not prepared to wait for community response to its own long awaited and soon to be released White Paper on Simplification of Superannuation?

After having publicly said that it looks forward to receiving the report of the Senate Select Committee, why is it not prepared to wait until the final report becomes available before proceeding with yet more fundamental changes to the system?

Following intense questioning during the later stages of the inquiry, Treasury provided detailed estimates of the costs and savings of the SGL initiative. These indicated that in 20-30 years time, net savings would begin to accrue on pension outlays. The Committee has seen neither detailed breakdowns of the new tax regime for superannuation nor has it had access to the impact of such changes on pension outlays and tax concessions. It would be prudent under this scenario for the Government to allow the Committee time to examine these estimates and advise the Senate of the efficacy of these changes in policy. The lack of information on this aspect of SGL is indeed alarming. Treasury was unable to give precise details of the cost of tax concessions towards 2000, but it was

broadly agreed that a figure of $7 billion, double that which prevails at present, would be likely.

Not one witness before the Committee seriously sought to justify the indecent haste of a July 1 start up date. Even ASFA, which generally supports the thrust of the legislation, told the Committee:

> ... there remains in our view a number of significant defects in the legislation and ten of these are in the paper that I have tabled today. ...As none of these have yet been addressed by the Government and businesses throughout the country are complaining about the impossibility of meeting such a tight deadline the Government has no option but to defer the legislation.

Indeed its consultants and industry representative made it plain to the Committee that with the shape of the final outcome quite uncertain the fate of the Bill as yet unknown and the Senate debate not scheduled to start until 24 June, a July 1 timetable would impose impossible compliance obligations on employers.

It is plain therefore that the only explanation for the Government's obsession is its anxiety to have its Accord deal with the ACTU in place well before the next election. Such a justification is almost a perversion of the democratic process. When the country is crying out for a sensible long term approach to retirement incomes policy, the Government seems determined to honour a back-room deal irrespective of the consequences and in defiance of overwhelming community opposition. The irony is that once the workers of Australia become aware that they are at least in theory expected to forego wage rises and to accept lower standards of living in order to disqualify themselves from the age pension, they will be most unlikely to show any gratitude to the Government at the ballot box.

A group of welfare, women's and community groups, including ACOSS, AFCO, ACOTA, AP&SF, Association of Civilian Widows, WEL and WIN, wrote to the then Treasurer, Mr Kerin, in October 1991 as follows: 'We would regard it as completely unacceptable if the major anomalies, inequities and inefficiencies ... were not addressed prior to further entrenching the current system and legislation'.

As the Government has taken no action to address these issues it is clear that it totally lacks support for pursuing the legislation further at this time.

One cannot help but agree with the BCA, which urged the Government prior to the last Budget 'to postpone its plans to legislate for superannuation until agreement is reached by employers, unions and the Government on the future direction of superannuation and retirement incomes policy.'

It has consistently stressed the need for a 'comprehensive approach to retirement incomes based on outcomes rather than contributions.'

The small business sector will be particularly effected by the SGL legislation as the bulk of non-compliance is in this area and most of this comes about through inability rather than unwillingness to pay, compounded by genuine uncertainties about the appropriate fund.

According to the VACC, the SGL will have devastating effect in the retail motor industry: 'Business across all sectors of this industry will face retrenchments, loss of retained earnings and vulnerability to bankruptcy'.

The arbitrary $ 500 000 dividing line between 3-5 per cent will particularly affect smaller firms at the margin who will be faced with sudden-death extra costs once their wages bill exceeds the limit. Small firms, with as few as 10-12 employees, could find at the end of the year that their total payroll had pushed them into the four or five per cent bracket. If they have only paid three per cent during the year, then $10 000 could be payable as a non-deductible fine – yet another massive disincentive to expanding employment.

Small business (those with less that 20 employees) make up 96 per cent of Australian enterprises.

According to the Victorian Employers Chamber of Commerce and Industry (VECCI) the cost to the Australian small business sector of providing superannuation already amounts to $1.14 billion a year – equal to 60 000 jobs for workers on an average weekly wage. The Australian Chamber of Manufactures is particularly incensed that the Bill deems independent contractors to be employees.

Consultation

As stated in the Committee's first report, *Safeguarding Super*, the SGL initiative is the third attempt since Federation to implement a compulsory system of superannuation coverage. By any standard, it is a large scale development which has the potential, if not properly planned and executed, to have horrendous employment and budgetary outcomes. The Committee heard evidence from a number of employer witnesses that the Government was unwise in not convening a National Conference of relevant parties as requested by the AIRC. Their view is that major legislative initiatives, especially those which will have a deleterious impact on employment and business profitability, should only be taken after full and proper consultative procedures have been followed.

In this case, such procedures have not been adhered to and so the SGL, especially as it is employers who will be footing the bill, will always be at risk.

The Government's refusal to consult with community groups and effected parties is quite extraordinary as the following extracts from the evidence make clear.

One of the best summaries of all the objections to the current legislation was enunciated by Mr Willis on behalf of the MTIA:

> First, that the timing of 1 July 1992 will impose an unsustainable cost burden on industry, unavoidably resulting in further business closures and job losses. Given the protracted and the severe recession being experienced and the urgent need to lift business investment to improve both competitiveness and employment opportunities, this new employment tax is totally unjustified: second, that the arbitrary timetable for future contribution increases may also be prejudicial to future economic growth later in the 1990s; third, that the form of the Bill is unnecessarily complex and costly to administer; fourth, that another tier of legal compliance for superannuation will compound the problem of excessive regulations rather than contributing to necessary simplification; fifth, that the many uncertainties of the

proposal, including the extent to which consequential cost increases are to be offset against future wage claims, may cause significant industrial disputation; sixth, that there is no firm provision for direct employee contributions and seventh, that the exemption and thresholds are unrealistically low and will result in a substantial number of costly but ineffectual benefits.[2]

Mrs Vilgan:
(Queensland Treasury)

We have received no response to any of the submissions raised. We put submissions in on the draft White Paper and on the White Paper. We received no comments back and we were not able to see the legislation in draft form.[3]

Mr Emery:
(South Australian Federation of Consumer Organisations)

... our Premier wrote on behalf of all Premiers requesting Treasury and other consultation before the legislation was introduced and that request was simply declined...[4]

Jane Elix:
(Director, Australian Treasury)

The Government has undertaken no consultation with the community at large and absolutely minimal consultation with the organised community sector.

Les Scott, in the House of Representatives on 5 May, made it quite clear that the consultative process has occurred between government, business and organised labour ...

... as a result of the last year's lack of demonstrable evidence to support the SGL, and particularly as a result of the last two weeks' pathetic presentations to this Committee by Treasury and other Government officials, public credibility for the SGL has been blown apart.[5]

Eva Cox:
(Womens' Economic Think Tank)

... this is a deal between the Government and the ACTU about something which has got very little to do with retirement income and much more to do with the politics of the union movement and the Government.[6]

2 SG evidence, p 67.

3 SG evidence, p 125.

4 *ibid.*

5 *ibid*, p 95.

6 *ibid*, p 96.

Mr Emery:
(CEO, SA Treasury – presenting a unanimous submission on behalf of the State Governments)

> ... about consultation between the commonwealth and State governments. There has been virtually none of any significant despite the importance of the topic, despite the fact that there are about 1.5 million people in State and Territory superannuation schemes and despite the very long experience of States and Territories in this area.[7]

Administrative Problems and Transitional Arrangements

The Bills will pose substantial administrative difficulties for employers, many of whom are likely to find that they have unintentionally failed to comply with its strict requirements and have thereby incurred on SGL shortfall.

In many instances a significant increase in contributions will be involved simply by virtue of updating current award obligations. For example, many awards currently specify a fixed contribution, being three per cent of the appropriate wage when the award was granted – which may be as long ago as 1986. Thus even three per cent of the current wage would effectively require an additional 2-3 per cent payment.

Many industrial awards require superannuation contributions to be paid into particular funds. As a result many employers face considerable administrative difficulties and increased expenses by being required to pay into a multiplicity of industry funds nominated by separate awards which do not allow employers and employees to develop their own superannuation arrangements.

The levy regime perpetuates the continuing lack of freedom for employees to choose their preferred superannuation fund. This is graphically illustrated in Queensland where the retail award allows for employee choice and as a result, an overwhelming number of staff choose to use the company fund instead of REST the industry fund.

The SGL legislation will compound these problems.

Whilst it purports to allow contributions to be made to 'any complying fund' it will not excuse failure to comply with award obligations. Indeed Treasurer Dawkins has made it clear that the Government will support ACTU attempts to vary award provisions so as to absorb the increases in compulsory employer contributions.

As Treasury has recently admitted to the Senate Select Committee, once a compulsory system is in place, there is no economic or financial justification for the retention of an award-based system.

In the United States, England and Canada the tax system is structured to allow people who want to run their own retirement accounts to do so by allowing them to contribute to the institution or fund of their choice, through the investment vehicle of their choice.

---

7 *ibid*, pp 112-113.

But under the SGL regime this will not be possible, except where employers neglect to pay their contributions. In this case the SGL will be collected by the ATO and then invested with the fund of the employee's choice. This illogical outcome offers the only means by which employers and employees can avoid the tyranny of the award system.

Administrative Costs and Transitional Arrangements

The main administrative cost to employers will be complying with the record keeping involved to ensure the correct contributions are made. This will become particularly burdensome after 1992-93, when the monthly contribution period will require individual calculations each month for each employee.

In addition to the employers' costs of arranging for superannuation contributions, there will also be the costs associated with directing any amount paid under the SGL to the individual employee concerned. Where employers have a shortfall in their contributions, they will be subject to the levy to recover the shortfall, an interest component and an administrative charge. The charge will initially consist of a flat amount of $50, plus an amount of $30 for each employee in respect of whom the employer has a superannuation shortfall.

Another cost of the scheme will be the increased administration charges of superannuation funds. In cases of low or minimal contributions, it is likely that the charges will be equal to or exceed, the required contribution.

Many awards currently provide for flat rate contributions but these will not satisfy SGL requirements. In many instances a change-over to even the minimum percentage contribution will mean a significant increase in payments.

In addition, the legislation does not sanction a fixed earnings base. As a result, the New South Wales Coal Association estimates that it will be required to pay a quite unnecessary additional $12 million a year into what is already a very generous scheme.

In this regard the NSW Coal Association submitted that, whilst its members contribute an average of 11 per cent of the superannuation earnings base, the SGL will impose a $50 to $130 million impost on the NSW coal industry.[8] The burden arises because, under an agreement negotiated between employers and unions, with the support of the Commonwealth and NSW Governments, employers will decrease contributions to the NSW coal industry statutory superannuation fund, which does not meet vesting and solvency requirements of the SGL and increase contributions to the award-related accumulation fund or to a company fund. While the switch between funds will mean that contributions are made to a complying fund, the Bill does not allow the contributions basis of the statutory fund (an award-linked reference rate) to be carried over to the accumulation fund (which has no explicit earnings base). This is contrary to the intent of government policy. Broader provision is required for retention of the earnings base for contributions to existing funds.

---

8 SG sub no. 3, p 5.

As the Bill does not contain adequate transition provisions, depending on the start-up date of the new arrangements referred to above, coal industry employers could fail to meet the five per cent levy for 1992-93 for some employees, even though they would be paying at a much higher rate into the non-complying statutory fund.

Should the Government not amend the SGL to take account of this anomaly, it places in jeopardy one of the nation's key export industries.

Further Anomalies

The SGL legislation does not require any levels of contribution for self-employed persons. If it is so important to insist that the employed workforce should be required to accept a compulsory regime there is no good reason why the self employed should be exempt, particularly as are some of the Government's most generous concessions are directed towards them.

Government Employees

The whole thrust of the SGL legislation is to force private sector employers to fully fund ever-increasing amount of superannuation. It therefore makes no sense at all that public sector schemes with current accumulated liabilities of between $80-$100 billion are to be excused from the discipline of funded arrangements.

Conclusion and Recommendation

The SGL goes to the heart of the debate about superannuation in this country. It is an Accord solution to an industrial relations problem. It does nothing to address the fundamental complexities and inequities of the present system but merely seeks to force an unaffordable timetable on top of the current unfair and inefficient award based system.

It is for the preceding reasons that we recommend that the Senate not agree to the Superannuation Guarantee Legislation.