

Submission

by

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to the

Committee Secretary

The Parliamentary **Joint Committee on Corporations and Financial Services**

Department of the Senate

Parliament House

Canberra ACT 26000

Inquiry into Corporate Responsibility

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Summary

This submission has four parts:

N° 1. Foreign trade and investment.

Canada's example of the need for 'triple bottom line' safeguards.

N° 2. Banking. The prevailing but flawed and failing doctrine that private banking should continue to dominate money issue. Governments should take back the power to issue credit (the bulk of our money supply), compile the facts and educate the public accordingly.

N° 3. Multilateral simultaneity. The need for grass roots and government understanding, compiling and promoting 'triple bottom line' policies and combining to induce governments to combine to put grass roots priorities ahead of those of combinations of big business and its servants.

N° 4. Combination going beyond adversarial business and labour unions

to involve all stakeholders.

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Dear Sirs/Mmes,

N° 1. Foreign trade and investment

Among controls of foreign based corporations should be limits on government agreements with UN organs and international financial institutions (IFIs).

In the absence of an Australian Bill of Rights, corporation law should spell out safeguards against misuse of power in accordance with UN Declarations and codes of practice as well as principles in statutes of foreign countries.

Note should be taken of findings due soon in a case reported by Jemma Bailey, jbailey@piac.asn.au, (02) 8898 6500, in Aftinet Bulletin 118, 19 September 2005, web site www.aftinet.org.au, as follows:

'On 12 August, the Council of Canadians and Canadian Union of Postal Workers (CUPW) filed to appeal a Canadian Court decision concerning the constitutionality of NAFTA investment rules. The groups had asked the Court to declare the private enforcement of NAFTA's investment rules unconstitutional because it undermines the role of Canadian courts and offends both the Charter of Rights and Freedoms and the Bill of Rights.

'Under Chapter 11 of NAFTA, foreign corporations can sue the federal government for compensation where legislation, policy or even the delivery of public services interferes with present or future profits. "We believe that legal disputes between individual corporations and the state, impacting on a wide range of legislation and public policy, cannot be placed beyond the reach of the Constitution and Charter," said trade lawyer Steven Shrybman. "NAFTA tribunals are not competent to apply Canadian law or legal principles, such as fundamental justice and equality."

'CUPW and the Council of Canadians launched their court case against NAFTA in 2001 in response to the United Parcel Service's (UPS) lawsuit against Canada. UPS is suing Canada for \$160 million USD in damages under NAFTA arguing that our publicly funded network of mailboxes and post offices gives Canada Post an unfair advantage when delivering courier services that are in competition with private courier services.

"A win for UPS would cost taxpayers millions and undermine their public postal service, said CUPW National President Deborah Bourque. "What's more, the suit launched by UPS could just as easily be over public education or health care. Most crown corporations and public agencies deliver some services that are in competition with the private sector."

...

'The groups are appealing the decision to the Ontario Superior Court of Appeal and expect the case to be heard later this year or early 2006'.

[End of quotes from Aftinet].

N° 2. Banking

James Robertson in the 1960s was a Cabinet Office adviser to the British government and later to the major UK banks. His email address is robertson@tp2000.demon.uk and web site www.ecoplan.org/tp2000

He published jointly with John Bunzl '*Monetary Reform: Making it Happen!*'

(International Simultaneous Policy Organisation, London. 2003).

His contention is along the following lines:

Prudential laws formerly curbed imprudent lending by banks. These restraints have been eroded, setting the scene for world depression.

Bank accounts were once backed by assets including gold. In war time (initially) governments freed banks to issue extra funds -- credit backed by the credibility of the banks and their governments rather than by 'real' assets.

Bank lending including overdrafts are bank promises of wealth. These promises are rented to borrowers -- that is, banks charge us (and our governments) interest on our money.

Popular perceptions, fostered by banking interests and economists who are prominent in government, finance, financial journalism and academia, tend to ridicule proposals that the issue of money by banks should be curbed again and largely replaced by government issues of credit for public purposes without the governments having to go into interest-bearing debt to banks. Expert defenders of the *status quo* raise objections that people will panic -- stability, business, employment, living standards will suffer, inflation will accelerate. The claim seems to imply that governments cannot be trusted to issue funds responsibly but banks can because they only do so when the loan produces a profit. They imply profit at market rates of interest. However, big banks are prone to manipulate credit for influence over markets and governments rather than purely prudential lending, much as governments are but without electoral accountability.

The general public is widely encouraged to think governments are more irresponsible with public money than banks, but governments have clear incentive and authority to enforce prudential rules and accountability safeguards. In fact imprudent major banking deals around Australia and the world have had to be bailed out by

governments to protect national currencies and public credit. If corporate standards alone rule, most government spending could be classed as irresponsible because it is applied for social and environmental benefits, not for profit to shareholders.

Governments need to face these facts and regulate money issue, avoiding the public debt to private investors -- government debt which is progressively building and at record levels in most countries, rich and poor. They should publicize in simple terms how "new funds" arise, disclose hidden bank subsidies, who benefits, and at whose cost. They should say if they deny that public proposed priorities can deliver more equity and sustainability without private profit, and why.

They should publish how the yen-, dollar-, euro-, pound-creating countries milk us when their currency is used as an international base. We ought to know how far

our leaders think it helps our case by trading as we are.

N° 3. Multilateral simultaneity

Perhaps the biggest impediment for such reforms is the enormous power of global financiers to direct investment terms and availability to favour 'business friendly' governments. Hundreds of millions in subsidies go from the Queensland government to entice mineral processing projects in central Queensland. If this did not happen such projects might emigrate. Many such projects remain profitable to their overseas owners, sometimes assisted by transfer pricing. If aluminium produced here is sold to associated foreign firms at cost of production, this exempts the producer from paying company tax in Australia. Our national government does not exercise its options to impose a tax on the reasonably deemed profits, presumably because Australia fears loss of industries to similarly low-taxing countries.

The ruling culture of economists tells us that 'national competition policy' is necessary to ensure economic growth in a free market. Globalize, privatize, downsize, are keys to this economic rationalism which encourages private centralization of market dominance while professing devotion to fair competition.

For 'triple bottom line' policies to replace this short-sighted unquestioning subservience to market forces, as governments are realizing voters (not just trade unions, social welfare lobbies or environmentalists) are combining to say "We give voting preference to candidates who endorse just and sustainable policies that we are developing by consensus -- candidates who undertake to implement those measures when enough governments (including our economic rivals) similarly pledge."

This simultaneous multilateral grass roots pressure on governments can defeat the corporate squeeze on triple bottom line policies when enough voters, and thence enough governments, agree. This combination of voters is progressing in the shape of ISPO, the International Simultaneous Policy (SP) Organization, www.simpol.org; scores of candidates at last year's Australian elections and growing numbers elsewhere have signed to adopt SP.

N° 4. Combination going beyond adversarial business and labour unions

The ACTU's submission to your Committee stresses some points quoted below using page numbers printed in the text:

At page 5 of 44:

The ACTU welcomes ... the concept of "enlightened shareholder value" ... courts, in interpreting directors' duties, usually focus on the decision making process taken by directors rather than the merits of the decision. ..."

At page 6: "... changes to the incentives, competencies and information/education of all financial market participants (not just company directors) .. concurs with the World Economic Forum's assessment ... taking into account the views of stakeholders."

Box One: WEF Proposed Initiatives For Encouraging Responsible Investment seems to shift major accountability channels from company directors -- but potentially only to regulators appointed by government, business or labour representatives rather than directly to grass roots stakeholders in enterprises and administrations. This may suffice in high profile cases like the James Hardie asbestos damage compensation issue, but leaves the decision-makers as at present open to the influence of 'bottom line' market-dominated power elites.

At page 19 the ACTU finds collective bargaining the most important non-governmental control on social impact of business. This is historically true as far as it goes, but traditionally it seems to have favored adversarial struggles between investor/management interests and servant/hireling resistance groupings, in extreme cases with violent unrest -- rather than consensus-seeking

stakeholder cooperative corporations. Similarly, at page 37 the ILO declaration is quoted as saying "The voluntary conciliation machinery should include equal representation of employers and workers" which overlooks the need for inputs from other stakeholders.