

BANK CREDIT UNIONS

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"Bank Credit Unions" is a submission to the Commonwealth Inquiry Into The Australian Finance Industry.

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"Bank Credit Unions" was researched and authored by James Hugh Donohoe BA (Ec.H.).

James is a graduate Economic Historian and a former a career Public Servant. During the Coal Boom of the early 1980's James headed Coal Leasing for the New South Wales Department of Mineral Resources, steering the creation of new mega tonne collieries including Saxonvale, Mount Thorley, Drayton, Bayswater, Baal Bone, Clarence Extended, Invincible Extended and Hermitage. He has served in a number of public service areas since then. James and his wife have also operated a small business for the past ten years.

James was a member of the research team supporting the Lusher Inquiry into the Efficacy of the New South Wales Police Administration and he has provided research assistance to several other Government Inquiries. He has been involved with credit unions for 25 years and has reluctantly resigned to their ultimate demise in their original form.

Over recent years he has witnessed first hand the arrogance of credit union managers and heard so much disappointment from many solid people who have walked away from their credit union following bad service to seek and successfully obtain better service from their banker.

He has sadly observed the unnecessary change of direction away from "putting people before profit", as their slogan now so hypocritically claims, to "putting huge management payrolls before profit". Such change, James feels, is for the worse and it has been deceptively hidden from the sight of credit union traditionalists.

This submission reflects six years of sometimes intensive investigation of credit unions leading to the conclusion that credit unions are no longer the Cinderella's of Australia's finance industry but rather the worst of one of the ugly sisters.

He fears a catastrophe in the community as more and more little people on the lower end of the socio-economic ladder are discarded by credit unions as the credit unions climb up the money ladder in their pursuit of higher "bottom lines" which serve to enrich credit union managers more so than, say, the \$20,000 p.a. factory hand who should be more the beneficiary of the very existence of credit union operations, but now days is fading from the credit union loans office.

His submission seeks to have the Commonwealth Government examine credit unions less compassionately and more

critically and to investigate the damage being done through changes in direction by credit unions to Australian retailers, small income earners, the banking industry and, more importantly, "Little Australians" as these would-be economic power brokers move out of the Aussie battlers' corner into the opposite corner of the ring, the side of the big league in the Australian finance environment, traditionally the domain of the banks, supposedly the credit union's competitor in personal finance.

His submission seeks bank licensing of large credit unions and the introduction of a new Government-Employer-Trade Union-community supported emergency finance scheme to replace this role of the original credit unions, now abandoned.

James is ashamed of the credit unions he once served so proudly for many years. As his fears now stand, credit unions are no longer "putting people before profit" but rather, "putting their executives before members".

1. INTRODUCTION

1.01. "Bank Credit Unions" is a paper prepared for the purposes of bringing to public notice a matter of deep concern regarding the control over credit union members' assets, interests and accounts. In order to tighten the system so as to maximise the legal focus on the client, this paper seeks to have the present form of larger credit union placed within the mainstream banking industry in Australia, followed by the introduction of a new form of an emergency financing scheme created which would be available to all Australians, regardless of assets and repayment ability to replace some of the rapidly fading credit union services that once moved the credit unions into existence. The paper also seeks reform of the small credit unions.

1.02. In essence the 4.5 million Australians with credit union accounts, be they savings, investment or loan accounts, are being seduced away from ethical banking institutions because of past reputations, only to find that credit unions provide their members with services a less adequate range of services compared with banks and that they are vulnerable to dubious treatment, the extent of which bankers despite their reputation, will not and cannot give their clients. It is only when a credit union member, who becomes frustrated with their credit union and moves to a bank as an alternative source for finance that members realise the deception involved, intentional or otherwise, and the inferiority of credit union services. This is usually highlighted when the former member's potential financial status is more favourably assessed by the banker than their previous credit union.

1.03. Credit unions are intended to be operated exclusively by members for the benefit of members. In recent years this philosophy has disappeared. The membership and asset growth in credit unions, mainly the larger ones, has led to a power drift away from the members into the hands of the "Credit Union Mafia".

1.04. The "Credit Union Mafia" is comprised exclusively of executive staff from the large credit unions, their administrative subsidiaries and shared management services. They are the only beneficiaries of the membership and fiscal growth of credit unions. Simply put, credit union growth only means higher pay packets going to executives. A credit union's fiscal growth means nothing to the member. Yet, it is most significant to the executive staff. This is because the size of their salary packages is influenced by the total value of their credit unions assets. Tight employment contracts biased in favour of the executive secures executive appointments whilst membership apathy ensures the continuity of "don't rock the boat" directors on their Boards of Management. As an example, the Chief Executive of one credit union with about \$250 million in assets, receives in the vicinity of \$350,000 per annum in annual report declared

salary (which, incidentally, may not be the full amount after fringe benefits). This is considerably higher than that paid to the President of the United States of America and substantially higher than that made to the Australian Prime Minister. Credit union executives believe that they are being paid their market place commercial worth. How self-flattering. What are they comparing themselves with, the corner bank manager or the Chief Executive of Westpac? If the remuneration packages of all the credit union executives earning over \$100,000 were counted together, it is most likely the total figure would far exceed the value of all similar packages paid to all the other bankers and financiers earning \$100,000 plus in Australia's banking and finance industry put together. Yet credit unions represent no more than 25% of Australia's total finance industry.

1.05. On the other hand few credit union directors are paid directors fees, despite their leadership of operations of significance in the Australian business environment and the value of their institutions to the Australian economy. A \$250 million company is not a small business enterprise. Some credit union directors are paid small fees but these are generally provided to cover incidental expenses in lieu of regular pestilent petty cash payments. Members are encouraged to believe that directors are only on their Board as a labour of love and that is the only reason why they should be there. This is an anachronism left over from the good old days and today ranks in reality only as an image preservation gimmick. This attitude is encouraged to prevail despite the fact that credit union directors can go to gaol for failing to meet some statutory requirements. One does not go to gaol as a labour of love.

1.06. As for membership benefits, there are none. Certainly, on paper the credit union member is an owner of the business. However, the legal value of a member's share is precisely \$2.00 in most cases. That share is usually backed by assets worth as much as \$1000.00 per share. All that worth in reality is controlled by the executive. The truth is that a person can become a member of a credit union and his bottom line is confined to the limitations on services provided by their credit union. The same person can open an account with a nearby bank whose assets are owned by others. The bank's profits pass to the owners. The credit union's surplus is reinvested into assets that remain within the institution. At the end of the day, nothing further passes on to the bank account holder other than the quality of service but on the other hand no more than that ultimately passes to the credit union member. And to think the bank account holder gets better service and, most importantly, cheaper finance.

1.07. Credit union fronts look good. Pleasant and, no doubt, naturally sincere staff man the enquiry counters and teller boxes, etc. Behind the scenes though are

empire preservers with a variety of tools available to neuter the recalcitrant Director who dares to shake the establishment or the member who challenges poor service. Available remedies for abuse of members and directors by executives are legally weak and frightfully expensive. Legal challenges amount to David with his pennies fighting Goliath with his bottomless pit of legal expense funding. In successful litigation by a member the results can outweigh costs anyway.

1.08. A method of Director destruction can be achieved by leaking a view of a Director's personal financial skills to his peers on the Board.

1.09. A method of achieving a member's destruction is by way of altering the repayment rate of his current loan from the board set or contract terms to untenable levels, pushing the borrower beyond his repayment capacity.

1.10. Do credit unions do such things? Yes they do. The victim usually doesn't know until the damage has been done. Regrettably, the legal system favours the credit unions rather than the members when the member seeks relief or legal redress in this event.

1.11. There are an array of consumer protection schemes, laws and regulations littering the statutes to ensure that bank and credit union mistakes and abuses affecting members and clients can be prevented, mitigated or remedied depending on the progress of the hurt. Generally speaking the banks are leading the way in remedial action and initiatives to repair the harm caused to a customer. Recent experiences point to the fact that credit unions on the other hand are smug and arrogant, living like parasites on the good name earned by volunteers of bygone days.

1.12. The Australian Banking Industry Ombudsman has already acquired respectability in dealing with complaints or having arbitrated customer disputes with their bankers. The issues covered are quite broad.

1.13. This contrasts with credit union dispute managers who confine their roles to ethical matters. Even in that environment credit unions are not scrupulous in their approach. Dealing with abuses are not on their list.

1.14. Australian credit union history acknowledges the role of German farmers sharing their finances in the face of heavy taxes for the foundations to the modern Australian credit union. Unfortunately the old German experience bears no resemblance to the involvement of credit unions today.

1.15. In the first stage of development credit unions in Australia were commenced in the workplace or in the community where people deposited spare money into an account where they received 12% pa simple interest. The

Board would then lend from that money to other members who were charged 12% flat interest. A surplus margin of 5% would accrue to the credit union and this surplus went into writing off bad debts, creating reserves and improving their assets-liabilities gearing ratio.

1.16. Banks at that time focused on big business while the small borrower experienced difficulties obtaining loans from them. Finance companies were generally bank owned and took on much of the business deflected by tighter bank lending policies especially in the consumer finance area and fringe case mortgagees. Finance companies were then the only other source of large scale lending. These finance companies were not benevolent and a void existed, especially, in the provision of easy access to emergency unsecured finance.

1.17. The borrowing needs of people with bad debt servicing reputations, few assets and low incomes went neglected by both banks and finance companies. It was in this area that credit unions flourished and gained a foothold in the savings and lending business.

1.18. By the 1970's this face of the credit unions began to change. Their assets rose because many a grateful "recalcitrant" borrower had made good and then made generous workplace salary deducted deposits to his credit union in appreciation. Savings deposits grew rapidly and the credit unions were able to extend their loan lending limits. By coincidence rather than deliberate marketing the credit unions captured a large share of the personal loan market for consumer items such as motor cars. Their efficient service, prompt approvals and competitive interest rates placed them in a position to threaten the major players in the personal loan market.

1.19. Unfortunately, competition for loan market share then became the philosophy moving the credit unions along in the finance industry. Frankly speaking, it was at this point that the "Credit Unions" opted out of helping the little man and began to vie for a place in the big league of high finance.

1.20. In time, and as the assets of credit unions grew to the high levels noticeable today, those people with bad debt servicing reputations, few assets and low incomes were, simply put, dumped by credit unions. Tragically, many a former good solid credit union member, who has fallen on difficult times, is bundled into this group. Their past reputation had died with their descent in affluence. All these categories of people have become a neglected sector of the Australian finance scene and now tend to fall back more often on charities for their sustenance and survival. The charities should have better things to do with their limited resources. A dumped economically depressed member's recovery is totally neglected by all.

1.21. Credit unions today are only using their former highly respectable name to convey their image. They are no longer benevolent nor helpful towards the awkward member who needs a rope, so to speak, to rescue them in tough times.

1.22. Credit unions generally offer higher than bank deposit interest rates and then charge higher loan interest than banks and some financiers. The higher deposit rate paid by credit unions has the impact of drawing on a substantial share of Australia's institutional funding. That in itself is detrimental to the credit union borrower because the higher cost of that money has to be met by the credit union borrower.

1.23. The first step towards uniform regulation of credit unions and banks has already been taken with the introduction of the Financial Institutions Act in the States and the nation-wide adoption of Queensland's finance industry code. The problem though is that where finance institutions are subject to State law, the overseeing of their operations are conducted by the respective State Financial Institutions Commissioner. That office could best be described as a toothless tiger. The Commission gives the impression that they only hire Accountants, especially audit specialists, who play tough with the figures on a "global" basis but fail to check and police the quality of the figures in individual members' account. Lack of resources perhaps? The feature of the member's account simply does not show up in the audit policies. It is certainly omitted from the Commissions' interests when defects are brought to attention. Surely faults in a member's account are symptoms somewhere of defects in the "global" accounting system. Maybe there are one off errors. Maybe too there are major faults that cause the problem. At least in New South Wales the Commissioner prefers to defect reports by members into the private dispute basket.

1.24. In the pecking order, the account holder is in fact the best auditor, rather than the school boy qualified ticket holder. Fobbing off complaints because "they are contractual" is bureaucratic vandalism. Sure the issues are contractual, but a defect in an account is a serious matter. It is usually a breach of statute and contract law. Legislators did not waste their time passing the credit Acts, the Financial Institutions Acts and the credit Union Acts with penalty clauses, legislatively intended to benefit the borrower and the depositor, in them for fun. The escape clause in a contract that allows the lender to vary the terms of the contract or to call up a loan is not an exemption clause from the penalty provisions of the Credit Act, the Trade Practices Act, Fair Trading Acts, Financial Institutions Act or Credit Union Acts. If the Financial Institutions Commissioners will not investigate reports of faulty accounting and

unscrupulous contractual management affecting clients nor prosecute offenders, then they should be given the flick.

1.25. The political scene and methods now in use to achieve elections of directors and executive appointments render credit union vulnerable to take over by criminal elements. Using methods recently witnessed in respect to one large credit union, it is possible for a group of criminals to arrange for a handful of friendly members, not otherwise interested in the A.G.M. to arrive before the A.G.M. vote and subtly departing before someone wakes up to the fact that the numbers of people in attendance exceed the number of votes received. This scam has already been tested in one credit union, at least.

1.26. In this event the Board would then be confronted with an undesirable power clique. Australians could then witness a scenario where credit union members were being blackmailed, deceived or bullied into conforming with unpalatable loan contracts. Even the cash reserves of the credit union might disappear.

1.27. For people determined to secure a place on the Board, if one can run for office with bent rules, as demonstrated in the incident mentioned, it is too easy for the nominated few to take control over a credit union against the best interests of legitimate members. This technique of securing control over a credit union has already been tested, successfully.

1.28. Credit unions need a shake up. Big ones to the right, small ones to the left. Those to the right should be sold to the banks or bank licensed with their share worth being put into cash or shares and given to their rightful owners, the members.

1.29. The small credit unions should be reformed. Their name should be changed for a start. The title Community and Workplace Financial Services sounds better. directors should be paid a fee commensurate with their legal responsibilities and in accordance with a formula set down by Government regulation.

1.30. Staff salaries should be capped and brought into line with those of the banking industry.

1.31. Elections should be held with all members having access to a vote. Proxy and mail voting should be permitted.

1.32. Lax credit union election practices and consumer resistant protection laws, coupled with apathetic bureaucracy, were installed when credit unions were young and operated by mums and dads in their kitchens or by dedicated typists in the factory office. Their spirit of community help outweighed their management skills and the law turned a blind eye to their inadequacies and any damage that they may innocently incur.

1.33. Big business should not be treated as charities any longer. The legal paths that protected the credit union operators of yesterday are still in tact and the damage incurred may not be innocently made. If people do not believe that laws were made to protect credit unions then their attention is drawn to the exemption clause relating to Parts 1-8 of the New South Wales Credit Act 1984. These parts contain borrower's contract protection provisions. The issues addressed by the Act contain the matters relevant to the most abusive practices in credit unions. It would be countered that the Financial Institutions Acts are now in place. However, many contracts which are still current were signed under the umbrella of the Credit Act 1984 and their savings provisions embodied into Financial Institutions Act 1992 preserves the status quo.

2.00. THE CREDIT UNION MAFIA

2.01. Over the years many credit union managers have been devoted servants of the movement. They have been dedicated bureaucrats fully committed to the ideals of the credit union mission.

2.02. Some of these managers, secretaries, or chief executives as the latest in zip words applies, still remain in the industry. Oddly enough there are a few good old fashion credit unions still serving their membership as before.

2.03. Besides the loyal old timers two types of credit union managers have emerged in recent years. The first is of the old guard who has flung their ideals out the window, so to speak. and ridden on the crest of the wave of credit union growth reaping the cream off the boom by translating their trading surpluses into excess wages for themselves and their deputies.

2.04. The other type is the pin-striped youngster who has politicised themselves into key positions within the credit union industry, successfully spring boarding into managerial appointments in the wake of extraordinary fiscal growth in particular credit unions or to replace the ever increasing retirees of the old brigade.

2.05. Like most commercial businesses today, there are considerable complexities that require very skilled managers. This feature attracts "market place" salary packages. However, what is wrong is that many of the managers have neither the training nor the acumen to fulfil their managerial roles as completely as competitors, eg. banks managers. Many of these managers are propped up by interactive support bodies, such as common service businesses. Indeed, some services are even propped up by banks.

2.06. It could well be argued that the day to day role of a credit union manager does not vary so much from that of a suburban bank manager. Much of the steam in a credit union is actually relieved by bank managers, especially those of the National Australia Bank. In fact a bank manager would have a more complex job as he is also engaged in managing other aspects of clients affairs, such as futures, share purchases, foreign currency, bills of lading, business lending, commercial leasing, combined institutions lending packages, import processing and export liens. The higher paid credit union manager wouldn't know where to start with these matters. Sure he has some corporate duties which are mainly undertaken in a bank or finance company by contractors or specialists. But so too does Mrs.Jones and Ms.Smith, respectively treasurer and secretary of the West Wanaaring Tennis Club Inc., who have to comply with the same laws and procedures and with the same meticulous attention to detail.

2.07. Beyond the provision of a few staples, the credit union chief executive has fewer products and services to process than the bank manager. In fact credit unions have ventured into the private business sector to tap into that area of growth potential. They can't handle it. Beyond assessing the salaried earner or the strict business income earner who produces his past tax returns to cover the income assessment function of a loan application, credit unions don't help beyond the familiar consumer or mortgage loan matter. They certainly cannot and will not deal with the ever increasing hybrid income producer who earns salary and operates a business at the same time. Factors, such as business in progress, are beyond their comprehension.

2.08. They could well argue back that their focus is on board support. However, that is a fallacy. Take for an example the local recreation club. The corporation laws have reached that club in exactly the same way as it has affected credit union business operations. The board of directors of a credit union have certain legal responsibilities and the chief executive services that area, but, so too does the secretary of the local recreation club, and for nothing too. Both organisations are treated exactly the same in corporate laws.

2.09. It was disgusting to read in the "Sunday Telegraph" of Sunday, 26th May, 1996, that the chief executive of the multi-billion dollar ANZ Bank is paid only a salary package of \$800,000. There is no problem with that. However, the same bank made a profit twice as large as one particular credit union in New South Wales is worth. The margin between the total salary packages for both chief executives, including fringe benefits, varies by only 50%.

2.10. That credit union's services are pathetically small compared with the service delivery requirements and the

range of service of the ANZ Bank. Its total staff is less than 100. The ANZ bank has several branches employing more staff, which no doubt would be operated by a manager earning no more than 20% of the credit union manager's salary package.

3. CREDIT UNION DIRECTORS

3.01. Less than 1% of credit union members elect their directors. None, as far is known, are elected by a system that is available to all members. Usually, credit union directors are only elected by those who attend the annual general meeting of their credit union. In a recently observed election only about 330 members (of a 42,000 membership), including 165 staff, directors and their friends attended and elected three directors. 41,650 members, however, didn't attend and could not vote. The annual general meeting was held in a restaurant. So the bulk of credit union members are apathetic about their Board. That type of set up for an A.G.M. for a 42,000 strong organisation is far from being conducive to stimulating members interest in the A.G.M. In any case a private corporation allows proxy voting in order to capture the interests and opportunities to determine the composition of the Board and corporation policy available and accessible to all stockholders, anywhere in the world.

3.02. In more recent years it has been so apparent that a person legitimately aspiring to become a Director without approval of the "inner sanctum" would need to rent a crowd slightly larger than the number of people who attended the previous A.G.M. Most wont bother. Few candidates have tried and succeeded.

3.03. Despite that, directors of credit unions are in the main a loyal and dedicated group who perform a herculean task and obviously do it very well.

3.04. Regrettably few credit union Directors are remunerated. Whilst the staff are paid salary packages far in excess of their workmates in banks and finance companies, the credit union directors on the other hand are virtually unrewarded for their duties and the risks that they are forced to face.

3.05. The legal liabilities of a credit union director are no less than those of a board member of a bank or finance company and, should things go wrong, the director of either a bank or a credit union could share the same gaol cell. Who says that credit union directors are subject to "volante non fit injuria"? Believers in credit union voluntarism are being conned.

4.00. STAFF EMPLOYMENT SECURITY

4.01. Many credit union chief executives play a subtle but critical role in the election of directors. The chief executives select their credit union's staff.

4.01. Credit union elections are held in conjunction with their annual general meeting. Notices of the meeting may refer to the election of office bearers with a message something like this "Only members attending the A.G.M. may vote."

4.03. This notice precludes most those eligible to vote who live some distance from the venue of the A.G.M. from attendance and thus, the election of directors.

4.04. Inevitably, the venue for the A.G.M. is close to the Headquarters of the credit union and thus easily accessible to most headquarters staff where a substantial part of the work force would be stationed.

4.05. A glance at the attendees at the A.G.M. reveals that as many as 50% of attendees are staff, directors and friends. In those circumstances the rank and file member does not have a chance at the Board without the Chief Executives support.

4.06. It is interesting to note that at a recently conducted credit union election where the voters were restricted, by way of the notice of election, voting only if they physically attended the A.G.M. Yet the Returning Officer, accepted the lodgement of completed ballot forms up to half an hour before the advertised time for the opening of the A.G.M. About forty people were noticed voting and.... then departing before the advertised time for the commencement of the A.G.M. None were seen returning after the official opening of the A.G.M. or after the advertised opening time.

4.07. The question is raised here as to whether someone orchestrated this arrangement to ensure the election of a particular nominee for office. The question is also raised as to the legality of the status of the board. The notice suggested that voting but not actual attending the A.G.M. was not permitted and thus members, other than those who dared to vote that way, were detracted from voting if the time taken for those eligible to both vote and attend the A.G.M. was not possible.

4.08. This result allows the Chief Executive, whether a participant in the setting up of the election environment or not, a free hand to set the goals of the credit union, employ the staff and negotiate, with little frustration, their contracts of employment and salary packages.

4.09. The goals of credit unions are now pointedly 1. Extremely low write-off levels (besides ensuring considerable and reliable growth, it also reveals excessively tight lending policies). 2. The higher interest rates on deposits to ensure the attractions

speculative and risk funds (which is passed on to borrowers). 3. High salary packages. 4. Long term executive staff employment contracts.

4.10. The end result of this approach is growth in bottom line balance sheet figures concomitant with growth in the chief executive's salary packages. More significantly though the ultimate effect is that the borrowing capacity of lower income earners shrinks and their opportunities to borrow in the tradition of credit unions continue to fade away.

4.11. It also results in the Aussie battler finding it hard to get a credit union loan or any other loan for that matter and, if he or she does, then they might find it harder to service that credit union loan than they would have otherwise experienced with a bank loan.

5.00 PRIVACY

5.01. Australia's privacy laws are nothing short of a sick joke. A claytons law would be an accurate depiction of Australian privacy law when it comes to the transmission of credit union members credit performance records. Simply put, the Australian and State's privacy laws are strictly procedural based. Quality of records transmitted are "regulated only by defamation law", which, as we all know, that this is the desmain of the rich and the political.

5.02. Little people need greater protection from the transmission of challengeable data. They need the right to have complaints lodged with the authorities and those abusers who twist an image such that an innocent person's credit worthiness reputation is unfairly harmed in any way to face the courts and to tell the judge all about it. To hell with that nonsense about the correctness of following "proper procedures". Lawyers made these laws and lawyers sit on the Privacy Committees, preserving their values. They make the laws and the general perception by the general public of lawyers who make laws is that they make them to make money for lawyers. If people cannot afford to sue in defamation and most cannot, then the abusers should not get away with their offensive conduct. Abuse of privacy and credit data should be a criminal matter besides civil. If it were, than that should stop the rot.

6.00.CREDIT REFERENCING

6.01. Adverse credit referencing is one of the most despicable features of the Australian finance industry. One adverse report can put a borrower out obtaining an ethical unsecured loan contract for five years. It can destroy a potential business and reduce the quality of life of a family. Worst of all, the damage to the Australian economy by the impact of reducing the purchasing power of the adversely reported borrower, by exacerbating their difficult financial situation and by

aggravating the dilemma which caused their repayment tardiness in the first place, is enormous. In some cases, especially for those nearing the twilight of their income earning career due to the lack of opportunities to borrow, stalled for the five years arbitrary time limit of an adverse credit report, the benefits of borrowing may in fact be denied them for the rest of their lives. Thus there are more Social Security dependants than need be.

6.02. Credit performance reports, in effect blackmail, customers. Many borrowers receive threats and in some cases their loan contract performance is reported to organisations such as the Credit Reporting Association of Australia without humane consideration of their dilemma. Remember well that the skill of a Debt Collector is to bully the client into paying arrears, not to listen to excuses. A case could be found to show that some people are thrown to the wolves, so to speak, so that they scream of their distress, especially where others will hear. Their distress will penetrate among those who dare to contemplate the failure to meet commitments. This is a sort of "See what happened to poor old Joe" syndrome.

6.03. Credit unions are members of the Credit Reference Association of Australia and a major user of their own central data sources which operates through the credit unions' common administration and services operations. These out of house or shared operations manage many of the credit unions' daily activities. Cash flow monitoring, central banking and direct cheque management are among those shared management activities carried on beyond the borrowers' own credit union. Each credit union within the shared operational group has access to records held by the common administrative or service facility. Thus a member who has a current loan application before a credit union could well have his or her past loan contract performance with another credit union viewed by the next credit union. There is evidence of cross-referencing of credit data by credit union loans officers. This is not done with the clear knowledge of the credit union loan applicant nor with the same finesse as that of the Credit Reference Association of Australia. Nor, for that matter, with the same regard to privacy law as is followed by the Credit Reference Association of Australia. Unfair transporting of personal data about credit union members has already been proven to the satisfaction of Mr. Justice Roden who reported it to the New South Wales Parliament through the Independent Committee Against Corruption. Indeed His Honour recommended criminal proceedings against one credit union officer.

6.04. Privacy laws said to be designed to protect borrowers are frauds. Sure, if the procedures laid down by statute are not followed, then the credit provider will be prosecuted, so the law says. Ho hum! Naturally credit unions follow the correct procedures. However, the

accuracy of the content of their reports are not subject to challenge under the privacy laws of this country. They should be! Defamation laws and litigation costs are not tuned in to the needs of an accidentally banned credit union borrower.

6.05. Credit unions cannot always assert fairness in their credit performance records. The worst part is that where they are wrong, there is no evidence that they make any correction. One credit union is on record of telling a member who reported inaccuracies in his account, virtually to "sue or shut up". The member could prove that he had not defaulted. He had the receipts for the repayments in accordance with his contract and the board approved repayment rate. Yet, his credit union insisted on keeping the record intact. The cost of litigation was assessed to be in excess of \$100,000 and to boot his Solicitor assured him that if he won, the remedy would not cover his costs.

6.06. The incident mentioned involved a Line of Credit with a \$5,000.00 limit, The Board determined rate of \$126.00 per month. The account was paid to date, yet it was called up for arrears of \$546.00 two weeks before the next repayment was due. The credit union maintained that the borrower had agreed to a repayment rate of \$273.00 per fortnight, even though the Board had determined a different rate of \$126.00 per month. The member concerned was not on payroll and accordingly he was repaying monthly. They would not tell him how or when this alteration to his contract had occurred. When called to explain the amended discriminatory and unscionable repayment rate, the credit union wrote back saying "You know". The member repaid the whole of the loan promptly but even that failed to mitigate the damage incurred to his otherwise impeccable credit worthiness reputation with that credit union which he had acquired over 18 years.

6.07. Following that incident the same member began to receive arrears notices for his personal loan which coincidentally was also for \$5,000 with a Board set and contracted rate of the same amount of \$126.00 per month. In this account the member had made arrangements for the lodgement of 20 monthly repayments in advance due to illness and unemployment a year earlier. After had exhausted only nine of those advance repayments, he refused to comply with the credit unions demands. He conceded to comply with demands only after having received a letter which threatened to take his property. The loan was actually unsecured. However, he was not placed to afford a legal defence. He then met the arrears and once the account was "corrected", he found that he had actually repaid \$1,000 more than contractually scheduled over the time concerned. He wrote to the Chairman challenging his treatment. The Chairman reported that on a date four months after the lodgement of the advanced repayments he had agreed to convert the

uncredited balance to ten repayments, even though sixteen remained. The member was just recovering from sickness and a spell of unemployment. He was financially broke at the time that this agreement was reportedly entered into. The member did not have to enter such an agreement. He had no recollection of such an agreement. Papers checked failed to reveal the receipt or dispatch of any correspondence on the matter. The date of the agreement mentioned in the Chairman's letter was a day on which the member's office telephone was not connected. He was at work that day and his diary revealed that he did not visit the credit union. The date mentioned, however, was 27.7.1990. His records revealed a telephone call of a similar nature to that mentioned by the Chairman, initiated by the credit union's debt collector, which was made on 27.7.1991, one year later. In any case this event was only an enquiry initiated by the credit union. The caller merely asked how many repayments did he think he had remaining on the arrangement. He answered "about ten". Following that telephone call he then complained of harassment as the debt collector was ringing daily and his contract schedule indicated that he was not in arrears on either of his loan accounts. The credit union acknowledged the complaint. They did not stop the harassment though.

6.08. Despite having borrowed and repaid over \$100,000 from credit unions with few real lateness over a 20 year period, the member has never been able to borrow from any credit union since. Five loans applications have been turned down by three credit unions, each for rather corny reasons and each following an unduly lengthy period of consideration (two months in one instance). The reasons given were "nebulous income" (some were but surely salary wasn't and that was adequate), "insufficient income" (the application was for a Visa Card which would only give direct access to his savings account. No credit facility was included. He was already issued, without application, a direct account access card anyway.), "insufficient security" (on an application for an unsecured loan), "it is against the law to lend to you" (what law?) and "Your income is inadequate and you are directed to seek counselling with Credit Line".

6.09. In the last instance, the member had actually been to Credit Line before. That body had merely advised him to "ring 60 Minutes" and tell them about the abuse he had been subjected to. On that occasion the member was seeking a \$4,000 personal loan. He and his wife's commitments totalled \$19,000 with repayments and rent totalling no more than \$2,100 per month against an income of \$8,500.00 per month.

6.10. When the member realised that for four years he had been declined every application for unsecured loans everywhere, he realised that the root cause of his trouble was with his credit union. For over four years he has only sought the restoration of his formerly good

credit worthiness reputation as if the credit union had not been mischievous and his loan repayment pattern was being judged on performance strictly in accordance with the schedule of repayments originally contracted. The credit union, through its solicitor, said "You are wasting our time" and "We did you no harm". Blocking an innocent person's borrowing capacity for four years is not doing any harm. That statement is preposterous. A credit union's solicitor is on record making that statement.

6.11. Three credit unions were involved with the member's loan applications. Obviously there was some collusion involved. The member perceived that two of the credit unions were too scared to approve the loan applications lodged with them. Their peculiar response gives this away. It should be pointed out that the other loan applications lodged simultaneously with his bank, giving the same data, were successful. These are not unique experiences. If credit unions were brought directly into the banking industry, the Australian Banking Industry Ombudsman could clean up the mess.

6.12. It may very well appear that this adverse treatment towards members as the occasion affords it is not general across the credit union movement. The reality is that this treatment extends to store credit card providers who would rate worse than credit unions for credit reporting abuses. Store credit providers were examined for comparison. Credit union policies can be better compared with martinets who manage store credit card providers more so than banks.

6.13. Damage done by store credit card providers by immoral conduct is so enormous that some of them have sent themselves broke. A recent shining example is the Jeweller, Prouds. Prouds reported many of its credit customers for trifling amounts of arrears. These arrears occurred at a time when interest rates floated above 20% and borrowers were hard pressed to sustain all their repayments at that level of interest. Prouds condemned its errant customers to a bankrupt-like situation. Many a long term Prouds customer joined the credit outcasts. Exit Prouds owners four years later. As they had destroyed their regular customers' ability to purchase from their stores, who cares? Everyone should. One customer, a fourth generation Prouds client, was reported to the Credit Reference Association of Australia for lateness occurring while her husband was ill and unemployed. She only owed a total of \$125.00. The former client was saddened to see it publicised recently that the owner of Prouds lost the business and millions of dollars. How ironic! Perhaps adversely reporting petty late nesses to the CRAA was bad for business. The client financially recovered and trades with Angus and Coote now.

6.14. David Jones, Myers and Grace Bros behaved similarly and heavy trading losses have been reported from time to time by these companies in the wake of such adverse credit reports since. One really doesn't wonder why!

6.15. It is interesting to note that ill health and unemployment, often the cause of belated payments, are in fact ignored as excuses by credit providers before referring their clients repayment performances, as defaulters, to the Credit Reference Association of Australia. This is despite the assurances by consumer protection agencies that clients in difficulties due to those causes should consult with their credit providers. Banks and finance companies are more sympathetic. Store credit card providers and credit unions are not. In fact a credit union can be genuinely feared to call in the facility to boot, with or without arrears. Credit unions are known for having called up a loan after a member reported unemployment. If unemployed, one would be well advised to tell their bank or finance company but never, never, tell their credit union.

6.16. Credit referencing practices in Australia are not tidy, nor are they fairly handled. The worst aspect of it though is the economic damage they cause. People are often told that if reported to a credit reference agency they can expect to have loan application difficulties for two years. That is an outright lie. The Credit Reference Association of Australia says, five years. Five years it is. Until, an adverse CRAA record is erased, one can forget about a credit union loan.

6.17. This predicament is worse than bankruptcy to those concerned. The difference is that a bankrupt can redeem his or her plight by securing early discharge. Non-bankrupt default reportees have to wait it out. Indeed, as the situation stands, it is possible that people who are stuck in a bind by adverse credit reports would be best to think very seriously of the bankruptcy option, unpleasant as this may be.

6.18. Credit unions maintain their common access records for well over five years. If one's credit union's record is blocking credit access, then bankruptcy may be the only one to go to clear the record. This would be a highly dangerous state of affairs for the national economy if people more placed in certain financial predicaments took this option. It should never be that this option can look the more attractive of all options to a distressed borrower. It can do so at the moment.

6.19. The worst part of this is that credit referencing is designed to ensure stability in the finance industry. Subjectively, but more importantly, is that credit access is critical to household budgeting and to the economy by way of extended consumer spending.

6.20. Each adverse report that goes public by way of the Credit Reference Association of Australia hurts the retail industry in particular and, in the chain of consumer events, manufacturers, growers and other service providers. It baulks the economy. The real cheats and recalcitrant borrowers are fewer and far between than those actually reported over lateness.

6.21. A percentage of those borrowers adversely reported ultimately turn to charities for help in times of domestic cash crisis. Don't the charities have more to do with their limited resources?

6.22. It is interesting to note the recent growth of loan advertisements in which the credit provider says "CRAA Report. No problem". Obviously the lenders are penetrating a loan market share of potentially good risk customers located among the adversely reported "defaulters". Good show!

6.23. Credit unions wont do the same thing. Yet that is what they hold to stand for and that is why they were created to do in the first place, ie., to provide lending facilities to those otherwise unable to obtain them. Those advertisements are an indictment of the neglect by credit unions of their mission and their responsibility to the communities that have fostered and nurtured them.

6.24. Credit reference organisations are required by privacy law to provide a borrower with a copy of their credit reference file on demand. The contents issued to the borrower are not the same the as those placed before the credit provider. The credit provider, say, using the Credit Reference Association of Australia, contacts the CRAA and obtains the data that one sees on the CRAA report, however, the credit provider then contacts those listed and receives a very detailed report on the applicant's past credit account performance with them. The applicant is not provided with access to that data by practice. They also cannot challenge its accuracy. Privacy laws must be extended to ensure that every skerrick of credit performance data made available to a credit provider when considering a loan application should be accessible to the applicant.

7.00 CREDIT UNIONS AND BANKS

7.01. For years the ANZ Banking Group steered many credit unions through their formative years. The bank did a wonderful job. That was before credit union members were issued with Cheque Books. The main effort by the ANZ Bank in those days was management of pooled funds and liquidity top-ups.

7.02. Computers came into the picture. Electronic Funds Transfer, Visa Cards, A.T.M.s, common access computer networks, Electronic Funds Point of Sale facilities,

financial management monitoring processes and, of course, cheque accounts added to the credit union infrastructure. Many credit unions moved their business to the National Australia Bank. It is believed that both banks were happy with the change. These banks have given the credit unions very good service. No aspersions should be cast on the banks for their involvement with credit unions. In fact only high praise is deserved.

7.03. With the management that it has assumed for much of the credit union industry's financial infrastructure, there would be little doubt that the National Australia Bank has assumed much responsibility for the integrity of the systems in place and cash management. With such responsibility, it would be fair for the bank to exercise a considerable degree of power over the credit unions within its net.

7.04. The exercise of this power is quite visible at grass roots level where one finds that many features of the former credit unions have gone and the more recent innovations would be familiar to those who are also National Australia Bank customers. Some credit unions now appear to be nothing more than satellites of the National Australia Bank, rather than the independent owner/user financier that they once were and are still perceived to be.

7.05. Credit union members have paid an average of \$2.00 for their share. However, the asset backing of their share can be as much as \$50.00. The National Australia Bank is exercising powers over credit unions for which it has paid absolutely nothing for the privileges it enjoys in credit unions.

7.06. Ultimately, the credit unions will have to become banks in their own right or the National Australia Bank (or other bank) will have to take them over and pay market price for them from the members. Despite the extent of any protests by those who still hold that they "own" their credit unions, that day will come. Credit unions will simply grow too big and remote from their grass roots founders to hide their true identity.

7.07. In any case, the harsher lending policies of credit union, as they have evolved in recent times, in contrast with the liberal lending policies of say ten years ago, and as compared with the banks and finance companies have generated a groundswell of concern among rank and file members and the opposition to change may be more confined to credit union directors and, especially, their managers, rather than the ordinary membership.

7.08. Credit unions are now only another competitor in the financial market place alongside the banks and the finance companies. Their original identity has now gone.

8.00. DISPUTE RESOLUTION

8.01. One of the worst features of modern credit unions is the arrogant manner in which disputes are processed.

8.02. The Australian Banking Industry Ombudsman has been in existence for several years now. It is a self-regulatory arm of the banks. It is not a Government agency although the Commonwealth Treasurer monitors its operations for fairness in the interest of consumer protection. It has generated a reputation for fairness and there are really no serious concerns about its operations floating around the community.

8.03. This is not so for credit unions. Credit unions trading operations are mostly subject to State controls. Consumer protection in New South Wales for example does not go so far as to prosecute credit unions for abusing members despite the myriad of regulations designed to prevent abuses. Under test, most of the regulations are paper tigers, more valuable to the credit union managers rather than the members. In fact credit regulations and credit union regulations and rules are totally useless when it comes to credit union members' rights. At best Consumer Affairs will only arbitrate a dispute and the feeling around the legal arena is that a member who wins in arbitration will inevitably lose at the end of the day. The favourable outcome will be greeted by the credit union with "So what!" Enforcement of solutions is ineffectual.

8.04. The Trade Practices Act is out of reach because of State jurisdiction while the States' equivalent, "the Fair Trading Act", that cover such matters as unconscionable contract and undue harassment in loan contract enforcement, is dealt with by the Consumer Claims Tribunal (NSW) which costs more to visit than its powers of remedy will grant in any verdict.

8.05. Regulatory control is enabled in New South Wales through the Finance Institutions Commissions, who can be expected to deflect complains about credit unions by replying "Its contractual". Who on God's earth is really out there enforcing the Act and Regulations, Sir? If one is struck by a motor car in a pedestrian crossing, then that is sueable too. But the driver should expect to visit the courts on the breach of statutory law apart from the victim's right to litigate. Something appears amiss in the State of New South Wales. To the eyes of injured credit union members the regulations are not even being seen to be enforced. It seems that the Finance Institution Commission has surrounded itself with a bunch of accountants who are more concerned with the mathematics of credit union accounts rather than their meaning in relation to the spirit of the consumer protection laws in their care.

9.00. CREDIT UNION MEMBERS' RIGHTS

9.01. As the law stands and having regard to the cost/benefit of challenging a credit union which a member feels has treated him or her unfairly, there is no effective compensatory remedies or conflict resolutions available. This translates into the credit union member having no rights whatsoever when it comes to dealing with a genuine complaint of unfairness. The fact that remedial pathways are embodied in the written law does not contradict this assertion. The legal reality is that the pathway from an incident does not lead to a just and economically practical conclusion for the hurt member. At the end of the day the credit union will win, whether it is in the right or not.

9.02. This dilemma is totally un-Australian. If credit unions are to remain, then the Government law enforcement agencies must be given low cost powers to protect credit union members, prosecute abusers, whether staff, directors or institutions, and ensure that arbitrated compensation or court determined damages are delivered.

10.00. CREDIT UNIONS AND NATIONAL ECONOMIC MANAGEMENT

10.01. The size of credit unions have rendered their combined worth a major player in the nation accounts. Reserve Bank controls over banking do not stretch far enough to the credit unions. They should.

10.02. Extending Reserve Bank power over credit unions to the same extent as the banks is long over due.

11.00. EMERGENCY FINANCE

11.01. Credit unions started in Australia as virtually a utility for emergency borrowing purposes. That commenced at a time when hire purchase contracts were easily obtained for consumer goods and banks provided people with fair credit handling skills and adequate incomes with temporary accommodations and personal loans. Finance companies took over some of the customers where the banks were hesitant to provide advances.

11.02. Before credit unions existed here one borrowed emergency money from a mate to pay back on pay day or from a relative on the "never-never" plan.

11.03. The introduction of credit unions formalised those sorts of ad hoc lending practices that had raged around the workshop or the family circles since "Adam was a boy". People pooled their resources, loans were advanced on the nod of work place committees and the defaulter was leaned on by his mates.

11.04. Initially the books, the loans committee, the treasurer, the secretary, the book keeper and the debt collector were volunteers. The credit unions cash tin overflowed as the idea kicked off and so too did the

clerical workload. In came the lowly paid part time clerk to take the burden off the shoulders of the volunteers. The position of clerk evolved into full time credit union Secretary with the growth in credit union business.

11.05. Then came the bureaucracy and the pin stripped credit union bureaucrats.

11.06. Up went the stakes. Competing with finance companies for their consumer goods borrowers, then the Building Societies for mortgage secured loans and eventually the banks for the small businessman's deposit account.

11.07. Credit union boards thought that competition was healthy for the country. No doubt that it was. Banks and finance companies began to respond and the Australian borrower began to get a choice of credit provider.

11.08. But.....up went the bureaucrats' salaries. A \$500,000.00 per year total package has already been achieved by one "Chief Executive".

11.09. Down went the percentage of loan funds advanced by credit unions to Australians earning below average wages. In fact it is possible that the credit union figures would mirror the extent of lending by banks to this same sector of the economy.

11.10. Up too went the funding demands of charities which provide emergency finance.

11.11. It is essential that low income earners have access to emergency funding and it is highly desirable that these people when genuinely in need should not have to compromise their dignity by begging help from a charity when their conscience plagues them simply because there is no other place to go.

11.12. A dignified alternative to provide emergency finance could be provided by banks instead. Features of the scheme would include:

- * The applicant must be a member of a work based or community based group contributing to a common fund managed by the group's bank
- * Referral by a recognised workplace or community group committee linked to the bank concerned.
- * The workplace or community group committee to be elected annually by financial members of the scheme.
 - * Proof of the need.
- * Proof of identity.
- * No asset assessment nor security arrangement.
- * No income assessment.
- * A genuine commitment to repay the advance.
- * Lending agreement to prohibit unscionable contractual treatment of the borrower.

- * Loan contract to be insured against death, unemployment or serious illness affecting income.
- * Loans must not be called in at any time.
- * No court judgements to be sought.
- * No credit reference reporting.
- * Maximum of three advances per year.
- * Limit of advances should equate to the persons membership in the referring group.
- * Alteration to repayment program at bank's discretion.
- * Bank to set a fee for the operation of the scheme and regularly bill each work place or community group for the bank's operations and its forecasted debt write offs.
- * The workplace or community group to arrange collection among participants to meet the bank's fee.
- * A participating member's contribution to the fund, net of previous credits made by the bank, should be credited to their repayment record towards the end of the contracted repayment program if the borrower under the scheme has fulfilled the repayment terms at least 80% of the time so far.
- * Separate arrangements could be made with banks by the Government for Social Security recipients, the Disabled, Students, Veterans, Pensioners and Self-supported Retirees.
- * The Commonwealth Government should guarantee the scheme for 25% of funds written-off. Participating employers should guarantee a further 25% of funds written-off.
 - * A person departing the scheme who has contributed to the scheme but has not been provided with a loan under the scheme should have half their contributions refunded.

11.13. There are millions of Australians who could benefit from a scheme of this nature. Most importantly, it could rehabilitate many people who have endured financial hardship and who have an urgent borrowing need due, say, to illness, but who have lost their ability to borrow from ethical sources. The scheme would also help those who are fully extended as far as their borrowing capacity would allow and who might otherwise default on existing commitments to survive a short term financial crisis and lose their valuable credit worthiness reputation.

12.00. CONCLUSION

12.01. Simply put, credit unions ain't credit unions no more. They are banks. The only differences left to distinguish banks from credit unions are the owners and the extent of services available. Bank shareholders can own any number of shares and their trading value is determined by the share market. The asset value of those shares is usually commensurate with the share market's

behaviour on the buying floor. The bank's shareholders equitably enjoy their bank's trading profits and capital appreciation. Credit union shareholders, on the other hand, can only possess one share and the share trading value of that share is artificially determined by the credit union's board of directors. Usually a credit union members share asset value is substantially higher than the Board set value. The credit union shareholder achieves no profit benefits from the credit union's trading operations and capital appreciation. Those benefits pass only to the executive staff whose "salary" packages are tied to those factors. Cheque and savings account are available through both credit unions and banks and this is where some deception has crept into the finance environment. Other banking services, especially of a business nature, are not available to credit union account holders. Yet credit unions have ventured into the community at large and successfully attracted some business persons' accounts.

12.02. Credit unions were once co-operatives. Legally they remain such but in reality anyone can join most of the credit unions and so the spirit of the co-operative movement has disappeared from them.

12.03. Credit unions are servicing 4.5 million Australians. That is a quarter of Australia's population. They are a sizeable part of the Australian finance sector. So, as they no longer contribute in any benevolent fashion to the less fortunate area of the national community, credit unions must be banked and brought under the full control of the nation's banking program, including the money generating and national economic management processes.

12.04. Bank credit unions. They have passed their used-by date.

13. RECOMMENDATIONS

13.01. Credit unions larger than \$10,000,000 in strength should be bank licensed in their own right with their share worth being put into cash or shares and given to their rightful owners, the members.

13.02. Credit unions smaller than \$10,000,000 in strength should have salary packages provided to their managers which are no greater than that set by determination or award for bank managers of branches of the same strength.

13.03. Credit union directors should be paid directors fees. Credit union directors should be paid a fee commensurate with their legal responsibilities and in accordance with a formula set by Government regulation.

13.04. In conflicts arising between board members or former board members and paid staff germinating from event occurring while the person concerned was a member of the Board, the director or former director should be legally protected and defended by the credit union in the event of litigation. As it stands at the moment staff are given legal protection first or usually, only.

13.06. The Commonwealth Government should introduce legislation to create a special community and employee emergency finance scheme and put in place certain finance risk guarantees to ensure the viability of such a scheme.

13.07. The small credit unions should be reformed. Their name should be changed to "Community and Workplace Financial Services".

13.08. Credit union staff salaries should be brought into line with those of the banking industry.

13.09. Credit union elections should be conducted with voting access being provided to all members having a right to a vote. Proxy and mail voting should be permitted.

13.10. The Commonwealth and State financial institutions laws and regulations should be tightened to ensure the enforcement of regulations. Abuse of members and account mistakes should be addressed by statute and in regulations much the same as the traffic regulations and penalties should apply too. The Financial Institutions Commissioners should have a policing and prosecution role in that area while members should be free to report breeches of law and regulation. Local Courts should be empowered to deal with complaints which lead to the prosecution of credit union staff and credit unions for breaches of law in the conduct of individual members accounts as well as the global issues currently covered by the legal system..

13.11. Privacy laws should be extended to ensure that credit reports are accurate. Enforcement roles by privacy protection agencies should be extended to ensure that credit referees can be prosecuted for the transmission to authorised inquirers of faulty credit advice about a client whether or not the transmission procedures were followed correctly. There should be severe penalties involved for any infringements.

13.12. Financial Institutions which maintain defective credit records about a client or former client should be liable to prosecution if it uses any faulty data, even internally.

13.13. Adverse credit reports should not be retained on file for client assessment purposes nor transmitted after two years from the conclusion of a loan facility.

13.14. Any financial institution knowingly maintaining an unsound credit report reflecting on a member's credit worthiness should be prosecuted under the criminal code and the Financial Institutions Commissioners should be empowered to receive, investigate and prosecute complaints.

13.15. The powers of the Reserve Bank of Australia should be extended to embrace the credit unions to the same extent as they are applied to the banks.