

Australian Adam Smith Club (Melbourne)

President: Michael Warby, Editor: Regina Bron, P.O. Box 950, Hawthorn, 3122

By competition the total amount of the supply is increased, and by increase of the supply a competition in the sale ensues, and this enables the consumer to buy at lower rates. Of all human powers operating on the affairs of mankind, none is greater than competition.
Henry Clay (1832)

Ken Phillips on Demonizing the Corporation

**The Adam Smith Club will host a dinner meeting on Wednesday the 26th of June 2002,
at Nikitas Greek Tavern, 258 Swan Street, Richmond.**

Ken Phillips has become well known over the last ten years as a stalwart defender of the commercial contract in a free society. In this context he is best recognized for his writings on and campaigns for independent contractors on tax and work relations issues. More recently he has turned his attention to criticism of the Victorian corporate manslaughter legislation.

In addressing the Club, Ken intends to discuss what he calls, the deconstruction of the corporation. He will paint a picture of how, since the collapse of the Berlin Wall and the apparent defeat of communism, free market societies are facing renewed assault but this time from within. He will look at the new coalitions being formed by churches, labour organizations, non-government organizations and others who run highly orchestrated and well funded campaigns to demonize corporations. He will examine how corporations have acquiesced in the campaigns, often fund the campaigns and suffer as a consequence. More broadly Ken will show that the anti-corporate campaigning is resulting in laws that breach core protections of justice and equality and if extended threaten individual liberty in a free society.

Ken has a varied background from his early working days as a primary teacher, to company secretary for a chain of retail and wholesale meat purveyors, then self employed retailer, paid union official and manager of a jobs placement agency for unemployed Cambodians. He describes himself now as a lobbyist coming to this 'career' through circumstance. Amongst many current activities Ken provides services to a range of private clients, is the formation CEO of Independent Contractors of Australia (www.contractworld.com.au), director of the work reform unit of the Institute of Public Affairs and of course long time and proud member of the Adam Smith Club.

Attendance is open to both members and non-members. Those desiring to attend should complete the attached slip and return it to the Club no later than Monday the 24th of June 2002. Tickets will not be sent. Those attending should arrive at 6.30pm for dinner at 7.00pm. The cost is \$35.00 per head for members and \$40.00 per head for non-members (PTO for explanation of arrangements).

**Enquiries to Ms Regina Bron, tel 9859 8277
or Dr Tom Jellinek, tel 9706 7400 (BH)**

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The Secretary,
Australian Adam Smith Club (Melbourne),
PO Box 950, Hawthorn, Victoria 3122.

Please reserve place(s) at \$35.00 dollars per member andplace(s) at \$40.00 per non-member for the June 26th meeting of the Australian Adam Smith Club. I enclose the amount of \$..... in payment for the same.

NAME (please print):

ADDRESS:

.....

SIGNATURE: TEL:

LAISSEZ FAIRE ON THE WEB

This newsletter has a new address on the web: <http://www.economic-justice.org/asmith.htm>. The Institute for Economic Justice has been created by David Sharp a former president (and current committee member) and Timothy Warner the current Treasurer of the Club. As stated on the web site, 'The Institute has been founded to assist those who have been subject to economic injustice, and to increase both public and professional awareness of remedies available under the Law.'

SLIPPING ON THE JELLY

Further to 'Nailing Jelly to the Ceiling', (*Laissez Faire* #59, April 2002), the recent Federal Budget went somewhat further than I suggested in restricting one's choice of doctor and medication. I mentioned the mooted payments to Doctors for providing government mandated treatment regimes – cheapest rather than best. In the Budget was a curly little provision that Doctors will only have a certain quota of each medication. After exhausting this quota the patient will be faced with full charges for medication regardless of whether they are

pensioner, war widow etc. This in effect will force some patients to move Doctor in the event of a necessary prescription being required.

This is where socialised medicine ends up. It is a very far distance - from providing equitable access to a few who have difficulty paying for medical services, to the rationing of medical services to all Australians, with criminal sanctions for those who wish to privately insure their basic health cover. We have managed the journey in twenty seven years. *TW*

DANNY KAYE REBORN?

The announcement that we are to have a new Inspector General of Taxation brings unfortunate remembrances of the late comedian Danny Kaye and his slapstick look at authority figures. As has been pointed out by a number of commentators it is a very bureaucratic answer to the problem of an over-mighty bureaucracy.

The two real world solutions to Australia's taxation problems are scrap the seventy year old Income Tax Assessment Act and lower the actual rate of taxation. Until it is possible for

an accountant (or even perhaps a taxpayer) to work out one's obligations simply, then no number of ombudsmen or Inspectors General, will stop unnecessary conflict and litigation. Second, only by lowering the taxation level do you make production and work more rewarding than fiddling the books. My Grandfather's dictum was that each year the government announced the amount of time that it was worthwhile spending arranging to lower his tax burden – it was called the marginal tax rate. At

present it is an economic benefit to the individual to spend up to 49.5% of their time working to reduce their taxes. That is an enormous incentive that has led to tax avoidance becoming a national sport.

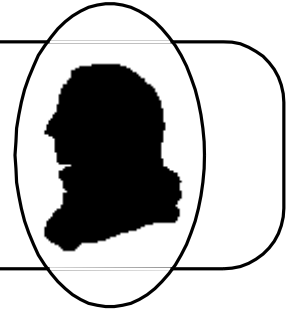
Adherence to laws derives from the populace understanding their justice and necessity. We will not have a predisposition to paying our taxes until they are calculated and assessed in a manner the population deems fair. *TW*

VENUE ARRANGEMENTS

In order to control costs the Club is attempting a number of new formats for our meetings. Drink is not included in the price but can be purchased at the venue. BYO wine only. An upstairs room has been reserved for the dinner meeting. We hope these arrangements do not cause inconvenience and we welcome your feedback.

Laissez Faire

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NOW FOR THE GOOD NEWS

It's always nice to know one is good, perhaps even the best, at something. This applies as equally to nations as it does to individuals. An academic, now from Western Australia but originally from Scotland, has written a book on the history of the soccer boot. It would appear that Australia has a near stranglehold (perhaps that should be foothold) on the production of top quality soccer boots, in fact football boots generally, and that all of the teams at the current World Cup soccer competition in Japan and South Korea are most likely to be equipped with Australian boots.

This manufacturing achievement, if correct, surely seems to be surprisingly unheralded by the local media. A possible reason for this might be that one cause of the success of the local product is that it is made of kangaroo hide which for a variety of reasons is particularly suited to the production of a snug, resilient and hard wearing football boot. The fact that Skippy, or at least his hide, might

be useful other than for a national emblem might be seen as something best kept under wraps. Certain small but vocal sections of the community have been known to become quite enraged at such and similar suggestions relating to possible commercial use of our native fauna. The leading British player David Beckham apparently discovered this when he was rash enough to reveal this particular aspect of the Australian boots that he uses.

Quite apart from the material used however it would appear that Australian boots are renowned for superior design. Such progress as has been made in the improved functionality and design of the football boot (which admittedly has apparently not been major) has come from Australia. This, it seems, is because the various code governing bodies, particularly the AFL have kept careful records of the particular injuries suffered by their players over the years and the circumstances of their

occurrence. This has enabled and encouraged experimentation and changes in design to occur and be monitored in such things as the size and positioning of stops (or cleats as they are now more commonly called) for different playing conditions. The end result is a superior and successful Australian product.

The good news does have a current puzzling aspect. It has apparently recently become necessary to cull 15,000 kangaroos at the army base at Puckapunyal. There are suggestions that it might be necessary to cull perhaps 25,000 more. There have been protests from animal welfare and rights groups. It has been announced that the carcasses are to be buried. If the hides are of value as it seems they are then it is hoped that at least the animals were skinned before burial. It may indeed be sad that a massacre of kangaroos has occurred but it would surely be an affront to nature if the resource of their hides was simply wasted. *DBS*

FREEDOM AND THE MOTOR CAR

The motor car is arguably the invention that has contributed most to individual freedom. Yet today it is everywhere under attack. It is, say its critics, a mass killer, each year claiming the lives of hundreds of people and injuring many more. Moreover it consumes vast quantities of the earth's resources particularly petroleum as a fuel but also steel plastic and rubber in its construction. It pollutes the atmosphere, causes urban sprawl, clogs the streets and when its useful life is over creates huge problems in its disposal. Governments tax it and its fuel savagely whilst smugly proclaiming that they are sin taxes and that taxpayers should not complain but rather feel guilty. With a rapacity that

would make a mafia member blush Councils exact parking fees and penalties whilst at the same time often denying attempts to provide more off-street parking. Every day elitists of various stripes and persuasions urge that greater obstacles be placed in the way of motor car use and ownership and that public transport use should be encouraged and expanded.

Despite the critics the overall benefits of the motor car continue to attract us as they have throughout its 100 odd year history. It has been the real emancipator of women, freeing them to travel alone when and where they choose without having to rely on a male escort and enabling them to combine work, doing the shopping and running the children around. The

elderly also have been rendered mobile. It is the motor car that has freed the common man and enabled him [and her] to move around to take advantage of whatever opportunities of work entertainment or interest might exist within range of wherever he or she might choose to live. All this door to door and at whatever time suits their convenience.

Is it really any wonder then that the motor car has become and continues to be an object of our affections and that it is likely that despite all the urging and cajoling we will go on preferring it over the uncomfortable inconvenient and constrictive public transport that is at huge public expense foisted upon us. *DBS*

COMPETITION, ANTI-COMPETITION AND JUSTICE

There is to be a governmental inquiry into the competition provisions of the Commonwealth Trade Practices Act 1974. This should be welcomed by consumers since it should provide an opportunity for submissions and evidence to be presented to show that government commissions, bureaux, agencies and so forth, established to enforce business competition or to prevent and punish behaviour deemed anti-competitive, are actually harmful to consumers and that such as exist should be abolished.

The chances of abolition occurring in the near future are of course remote. Even if the inquiry were to result in such a recommendation it is unlikely that any government would implement it. There presently exists a popular conception that such organizations benefit consumers and even more importantly that their workings are consistent with and a necessary component of a just society. A public inquiry, however, provides an occasion for such misconceptions to begin to be dispelled.

The nominal premise for setting up such organizations in the first place is unimpeachable; competition in trade and commerce protects consumers and benefits society generally. Few 21st Century economists would dispute such a basic proposition. This in itself is a significant step forward in economic science. The conclusion however that competition requires a government regulatory body to protect it is a complete non-sequitur.

Traditionally Common Law courts have long recognized that trade benefits society and were prepared to act against what they saw as restraints on trade, refusing to enforce contracts which sought to restrict competition and positively enjoining those who would otherwise detrimentally interfere with it. But the courts were at pains to restrict such actions on their part to what were seen as particularly egregious examples of restraint of trade. They constrained themselves from any general tendency to interfere with trade or commerce, preferring instead to put their trust largely in the self-regulating mechanisms of the free market.

The Common Law position was significantly changed by the introduction of the T.P.A, and in particular more recently by the activities of the Australian Competition and Consumer Commission, the regulatory body set up to oversee and enforce the competition provisions of the Act. Chairman Fels has expressed the Commission's role as being to investigate claims of anti-competitive behaviour. It can be seen that without precise definitions and effective constraints this is potentially a role of limitless proportions. It can virtually mean that all business is against the law; setting a price, for instance, below a competitor can lead to an allegation of predatory pricing, setting it above to an allegation of monopoly pricing or price gouging, whilst setting it the same to an allegation of collusion.

Anti-competition policy in Australia (and in many other countries) owes much to the experiences and practices of the USA dating back to the Sherman Anti-trust Act of 1890. Throughout its history anti-trust law, as it is referred to, has been the subject of much criticism. It is widely regarded by many economists as fundamentally flawed, being based on erroneous and misunderstood economic theories. One of the world's most respected economists, Alan Greenspan, Chairman of the US Federal Reserve Board had this to say about it in 1961: "The entire structure of antitrust statutes in this country is a jumble of economic irrationality and

ignorance. It is the product of a gross misinterpretation of history and of rather naïve and certainly unrealistic economic theories".

American antitrust law has also been much criticized as lacking any clear formulation of what it is about, any precise rules as to what is or is not permitted or even a determined or consistent view as to what constitutes a breach and how it can occur. In such circumstances, charging, much less convicting, anyone of a breach of such law makes a mockery of justice. Thomas Sowell, a leading American economist speaking with reference to the recent Microsoft case said: "The biggest question about antitrust law is whether there really is any such thing. There are antitrust theories and antitrust rhetoric as well as judicial pronouncements on antitrust. But there is very little that could be called law in the full sense of rules known in advance and applied consistently."

One of the myths on which anti-competition law generally is based is that competition in the marketplace inevitably degenerates into monopoly. It arose from a popular misunderstanding of the classical economists' views as to what constituted competition. In any event economic science and empirical knowledge have progressed significantly since the days of the classical economists. Competition properly understood does not consist simply in passively accepting the existing market circumstances as though divinely ordained but in actively working, by advertising, brand establishment, adjusting production and bargaining with suppliers, customers and competitors, to change favourably the circumstances of the market. As long as entry to the market remains free (and it is only government intervention that can prevent it from being so) no monopoly can arise.

Thus for example when Henry Ford was aggressively slashing the price of his cars to the despair of his competitors he was actually selling at a price well below his existing costs. He reasoned correctly that he could thereby expand the market to such extent that he would be enabled to cut his costs structure, increase his market share and make significant profits. Although Ford thereby achieved dominance and some of his competitors went out of business others arose to share in the profits of the expanded market. The ultimate beneficiary of course was the consumer. However if Henry were to attempt a similar move today it is likely he would be charged with predatory pricing.

It is reported that when John Howard was canvassing the views of businessmen prior to the last election he was taken aback by the vehemence and universality of the complaints against the ACCC. Yet if reform is to occur it will be necessary for such criticisms to be made publicly. The CEO of Qantas, Geoff Dixon, is to be commended for his willingness recently to do precisely that. It will be interesting to see how many other business leaders are prepared to do likewise.

Perhaps the world's leading authority on the subject is American Professor Dominick Armentano. He has recently released a new book, "Antitrust: The Case for Repeal" where the case for repeal is clearly set out. It will hopefully provide interesting reading for those involved in the forthcoming inquiry. It may be that they will also take the opportunity to consider Adam Smith's view on the matter of price agreements and whether any law should be passed against them. In Smith's opinion, it was not possible to execute any such law in a manner consistent with liberty and justice. *DBS*