

# Australian Adam Smith Club (Melbourne)

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

Every generation must wage a new war for freedom against new forces which seek through new devices to enslave mankind.  
*Platform of the Progressive Party (1924)*

## Paul Kerin on Free Markets, Political Philosophies & Political Reality

**The Adam Smith Club will host a dinner meeting on Tuesday the 27<sup>th</sup> of November 2007,  
at the Curry Club Cafe, 396 Bridge Road, Richmond.**

Paul Kerin is Professorial Fellow at Melbourne Business School, where he teaches business strategy, corporate strategy and M&A. He also writes a weekly column in *The Australian* on the curly issues facing key decision-makers (boards, CEOs and politicians). Most of Paul's career has been in private enterprise; prior to joining Melbourne Business School, he was Managing Director (Australia & NZ) of A.T. Kearney. Paul obtained his PhD in Business Economics from Harvard University, where he was George Dively Fellow in the Centre for Business & Government.

A free marketer and Labor voter, Paul Kerin will explain why he's depressed about the chances of serious economic reform - whichever party wins the upcoming Federal election!

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 26<sup>th</sup> of November 2007. 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 (see next page for explanation of arrangements and for electronic booking details).

**Enquiries to Ms Regina Bron, tel. 9859 8277 (AH) or mob. 0412 006 786 (BH)  
or email [asmith@economic-justice.org](mailto:asmith@economic-justice.org)**



detach and return

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

Please reserve ..... place(s) at \$35.00 dollars per member and .....place(s) at \$40.00 per non-member for the November 27<sup>th</sup> 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 an 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.'

### ELECTRONIC PAYMENTS

By popular demand, the AASC now offers electronic booking and payment to dinner meetings. Bookings can be made by emailing the number of members and non-members attending to [asmith@economic-justice.org](mailto:asmith@economic-justice.org); a reply email from the club will then be sent with a link to PayPal where the payment can be made by Mastercard, Visa, AMEX, Diners or PayPal Account. Bookings made after Friday 23<sup>rd</sup> of November will not be accepted online. FEES - a \$2 card fee will apply for the transaction.

## PEGS AND PRIVATE EDUCATION IN VICTORIA

Education is a precious thing and parents are willing to pay dearly for the school of choice for their sons and daughters. In the north and west of Melbourne, where the concentration of private schools is not as dense as in the south and east, one of Victoria's largest private schools provides education of a high standard – Penleigh and Essendon Grammar School (PEGS).

Penleigh is the girls' section of the school. In the high school section, boys and girls are educated separately until Years 11 and 12, when they are brought together in McNab House for their VCE exam preparation.

The predecessors of PEGS were private schools. In the early colony of Victoria, education was provided by a system of denominational and non-denominational schools, also referred to as church and common schools, both of which received a government subsidy. In 1856, the colonial government offered the major Christian denominations a total of 20,000 pounds to open their own "public" boys' schools, resulting in the opening of Melbourne and Geelong Grammar Schools by the Anglicans, Scotch College by the Presbyterians, Wesley College by the Methodists and St Patrick's College by the Roman Catholics. Girls' schools followed later, as excessive spending on the education of girls, who were to become attached to domestic life, was often seen as wasteful.

The establishment of State primary schools date from the 1872 Education Act, which aimed to provide Victoria with education that was "free, compulsory and secular." Defenders of the new Act, which raised considerable controversy, saw the Act as the very model of liberal enlightenment. Secondary education, however, remained the domain of the private sector. Education for most of the middle class remained in the hands of purely for-profit "private" schools, as opposed to the "public" church schools. The "private" schools had good results and enrolments – better than the "public" schools – because they adapted better to emerging social and educational trends. Secondary education remained in the private sector. The 1905 Registration of Schools and Teachers Act, by which the government sought to regulate education, saw the number of "private" schools decline from 945 to only 548 in 1911. The government of the now State of Victoria introduced the 1910 Education Act to break the monopoly private interests held over secondary education by introducing State higher elementary schools for children from 12 to 16 years, and senior high schools.

The for-profit schools, under competitive pressure from the State system and the Church "public" schools, either amalgamated and became "public" schools under Church auspices, or went out of business. Today, for-profit education is largely restricted to the vocational sector, but many respected Church schools, such as PEGS, can trace their origins to truly "private" education.

For more information on PEGS and private education in Victoria, see "Penleigh and Essendon Grammar School: a history" by Victoria Peel (Halstead Press, Sydney, 2001.). *JRB*

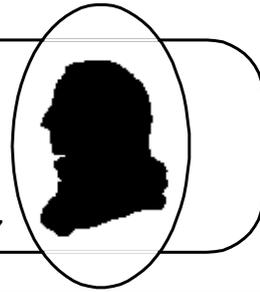
*For electoral purposes responsibility for comment in "Laissez Faire" is taken by T Warner, 10 Arthur Street, Malvern Victoria.*

### VENUE ARRANGEMENTS

For the Curry Club Cafe, drink is not included in the price. You may bring your own drinks (no corkage will be charged) or purchase from the restaurant which is fully licensed. A room has been reserved for the dinner meeting. We hope these arrangements do not cause inconvenience and we welcome your feedback.

# Laissez Faire

Newsletter of the Australian Adam Smith Club (Melbourne), No 84, November 2007



## THE VISION THING

A lot of ink has been spent commenting on whether Howard has a vision for the future, and what is Rudd's vision for Australia. The two most amazing points are 1) that vision is almost interchangeable with spending tax payers' money, and that for all the talk of the triumph of the markets 2) very little is being offered by way of market reform, that is aimed at having real markets where buyers and sellers set prices.

Every time the Prime Minister gets a vision, I feel a lightness in my wallet. Mr Rudd is following the standard pattern for the ALP, keeps everything as similar as possible to the Liberals and then when in Government I can feel

some public service pay rises coming forward.

Perhaps Rudd and Howard should look over to the UK. Newly appointed Prime Minister Brown was ready to roll on a set piece election to endorse his succession. In one week the Conservatives leapt ten points in the polls after announcing the lifting of estate capital tax thresholds from 300,000 pounds to a million. The aspirational voters saw this for the lifting of a dated concept of wealth and swiftly rewarded the Conservatives. Now Prime Minister Brown is left trying to play catch up and has announced the "me-too" on tax policy.

A real vision would be that of a

limited government that doesn't interfere with the citizenry.

There are minor parties that one could contemplate - the Liberty and Democracy Party (Group L on the Senate Ticket) which has a limited government and largely libertarian policy, is probably the best bet. But why is the vision that government is too big a fringe concept? With the only two outcomes of the forthcoming election likely to be a very narrow win or a loss - perhaps the Liberal Party should revisit some of its founding principles and look at the UK and the USA to see the electoral success that comes from really embracing lower taxes and smaller government. *TW*

## MEETING REPORT

The October Meeting - in this case the Halloween Meeting of the Club - heard Dr Fred Hansen speak on health care reform. The Malvern Vale Hotel venue is fast becoming a favourite and the meal and the cheese platter after were much appreciated.

In a very far reaching and well thought out address Dr Hansen covered the existing paradigm of society wide risk (such as epidemics and disease which all are at risk). The changes to economic and social conditions in the last fifty years have created a new dispersal of risk, where the middle and upper social strata are far more at risk from chosen factors (e.g. exercise or lack thereof, smoking, sports injuries) than from epidemics. This change in risk has not been addressed by the socialised medicine advocates.

Dr Hansen then outlined a new private paradigm where specialist centres dealt with all of the patients' requirements and aimed for excellence through competition between providers informed by the open provision of outcome data. Two important points were made during the address and emphasised in the question time. That public risk is not eliminated and needs to be socialised by some tax or health account type method to ensure all have access to catastrophic coverage of health cost. The other point is that health data and any DNA profiling must remain the property of the individual.

Question time was lively and ran hot over thirty minutes. Dr Hansen's address is available for download from the Club's website at [www.economic-justice.org/How\\_to\\_achieve\\_good\\_healthcare-Hansen.pdf](http://www.economic-justice.org/How_to_achieve_good_healthcare-Hansen.pdf). *TW*

## PRICE FIXING IS A BUM RAP

Price fixing has been much in the news recently. Visy, a major cardboard company has admitted that it entered into an agreement with its main competitor, Amcor, to fix the price of their products and to refrain from submitting competing bids when prospective purchasers called for competitive tenders. As a consequence, Visy and its executives, including the head of Visy, Richard Pratt, allegedly the nation's third richest person, have been castigated far and wide. Visy has been fined \$36 million and strident calls have arisen for price fixing to be made a jailable offence.

Words frequently used by fulminating commentators to describe price fixing include fraud and theft. Such characterizations however are generally incorrect, and stem from poor analysis and/or legal and economic ignorance. Nonetheless, such characterizations are seemingly readily accepted by a large proportion of the public, even including by those who should know better. Why this should be so is perhaps an interesting field of inquiry for a sociologist or psychologist. For the moment however we can focus on whether or not price fixing should be criminalised.

The essence of price fixing is collusion; that is to say, there must exist an agreement, acceptance or understanding between two or more separate and discrete parties that they will not sell, (or buy), a certain item or items, other than at a specific price. This, it is said, diminishes the efficiency of a free market and detracts from the benefit of market prices, otherwise to be obtained therefrom, by the participants therein.

The first point to note is that determining collusion can be extremely difficult. Markets by their nature work towards a common price. If after a long interplay of market forces, the price of a particular item is the same all over town, this might be collusion. On the other hand, it might simply be the current market price, which by definition is the lowest possible price consistent with making a profit that the particular item can presently bear. Not having colluded, participants involved in the market and setting an identical price might feel safe enough. On the other hand, if price fixing is criminalized, they might feel obliged, rather than run the risk of being accused of a crime for setting the same price, to set a higher price than they otherwise would. (They cannot set a lower price since, by definition, this would put them out of business.)

Undoubtedly entering into a price fixing agreement, or cartel as it is sometimes referred to, can, at times, be beneficial to otherwise competing parties; reducing uncertainty, increasing efficiency and creating stability. Governments, constantly, are prone to create such situations by decree, using phrases such as orderly marketing, price stabilization, guaranteed pricing, and so forth. Why governments, rather than participants in the market itself, are competent to make such decisions is difficult to justify.

Regardless of whether they are beneficial or not, price fixing agreements or cartels invariably collapse. The minute one or more of the participants perceive it to be advantageous to withdraw from or break the agreement, they do so, and price competition resumes. This is particularly so since courts have traditionally been unwilling to enforce such agreements. Alternatively newcomers or non-participants in the agreement or cartel seeing an opportunity to profit, move in

and undercut the agreed fixed price.

It is because of the free market's tendency to reject and dissolve price fixing agreements or cartels, that those wishing to use them for the purpose of exploitation, call in aid governments, to create the only way whereby price fixing can ultimately be made to so work, namely for government to close the market and to sanction and enforce the agreement industry-wide.

Thus, whether price fixing is legal or illegal, consumers suffer no harm as long as the market remains free. Given the choice they either willingly pay the fixed price or they can go elsewhere. Nor can it sensibly be said that in paying the fixed price they have suffered a quantifiable loss by comparison with what the market price might otherwise have been. Because markets are dynamic, not static, it is simply not possible to calculate what a market price might have been if circumstances had been different. The market price is the price that arises from the circumstances as they actually are, and the only way that a market price can be ascertained is by the actual interplay of the circumstances that exist in the market at any given time. To suggest otherwise is simply speculation, a guessing game of what might have been.

Given that price fixing agreements can be of real benefit to the participants, it can indeed be the case that the public, too, will benefit therefrom, if only from having available more secure and stable suppliers. Since, as aforesaid, the public suffers no determinable harm from price fixing, no legitimate basis exists for its criminalization.

Apart from the lack of any proper basis for creating such an alleged crime, the cost of doing so, which costs ultimately must be borne by the public, would be huge. Even excluding the cost of the regulators, the cost of penalties and of compliance will inevitably be passed on by the affected industries by way of necessarily higher prices. Treasurer Peter Costello has been severely criticised for not criminalizing price fixing, and has replied to his critics by saying that it was a difficult situation. Perhaps we should give him credit for being one of the few senior public figures with the sense to see the true position, or at least with the courage to express it.

Richard Pratt claimed that when he entered the agreement with Amcor he never intended to keep it, but was using it merely to enable him better to compete with them. There seems no reason to disbelieve him since during the four years of the agreement, Amcor's share of the market significantly fell whilst that of Visy significantly rose. Amcor allegedly blew the whistle because they realized Pratt was cheating on the deal. Some would say, if Pratt is to be criticised it should be because of this, rather than for price fixing in a free market, one moreover in which other suppliers existed, apart from Visy and Amcor.

The case against criminalizing price fixing seems clear enough. But perhaps we should leave the last word to Adam Smith who in 1776 wrote;

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or some contrivance to raise prices. It is impossible indeed to prevent such meetings by any law which either could be executed or would be consistent with liberty and justice." *DBS*