

Australian Adam Smith Club (Melbourne)

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

We accept and welcome ... as conditions to which we must accommodate ourselves, great inequality of environment; the concentration of business, industrial and commercial, in the hands of a few; and the law of competition between these, as being not only beneficial, but essential for the future progress of the race.
Andrew Carnegie (1835-1919)

Martin Cox on Competition Policy

**The Adam Smith Club will host a dinner meeting on Tuesday the 6th of May 2003,
at The Curry Club, 396 Bridge Road, Richmond.**

Martin Cox is Chief Executive of ICC Australia, the Australian affiliate of the International Chamber of Commerce, the world business organisation. As a member of the ICC World Council, and a number of ICC Commissions, Martin represents the views and concerns of Australian business, and influences ICC policy formation on behalf of ICC Australia members. Martin unashamedly advocates free markets and free trade. Prior to his current role at ICC Australia, Martin Cox held a number of executive and non-executive senior positions in Australian and overseas companies.

Mid April saw the release of the Dawson Report [Trade Practices Act (1974) Review] into the competition provisions of the Trade Practices Act. Both criticism and support has emanated from various political parties and interest groups. ICC Australia made a submission to the Review and therefore Martin is well placed to comment on the Dawson Report and what its likely results will be on competition in Australia. Not confining himself solely to the Dawson Report, Martin will cover other trends and influences on competition and free markets in Australia.

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 5th of May 2003. 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 (AH)
or Dr Tom Jellinek, tel 9706 7400 (BH)**



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 andplace(s) at \$40.00 per non-member for the May 6th 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.'

REPORT ON THE MARCH MEETING.

The March Meeting had the usual fine spread from Nikitas Tavern, followed by a most informative talk from Peter Attiwill, Principle Fellow of the Melbourne University Botany Department. The revelation that over 90% of the extinctions of Victorian flora have come from Grasslands clearance and use, not from the much talked about Central Highlands and Ottoway forests, was a key to understanding the real conservation and commercial values necessary for managing the natural heritage of Victoria.

A good tour de horizon was also given of the fire and renewal cycle of the native vegetation, pre and post aboriginal arrival, and post-European settlement. The unfortunate political and philosophical interference with forest management of the last twenty years was also given a thorough discussion.

Altogether a good evening was had by all. A number of new faces were also present making this an excellent start to 2003.

Tim Warner

Hon Secretary/Treasurer

Australian Adam Smith Club

DAEMONIZING FREE TRADE

One of the commonest ways of attacking what you dislike is to link it with something patently bad and then subtly or not-so-subtly suggest or intimate that the thing you dislike causes, leads or equates to that which is patently bad; the credulous and gullible are always likely to believe it.

Pat Buchanan, the conservative American columnist and would-be President did this to free trade in his column of 21 April. He pointed out that the European Union and virtually every free trade zone had led to more government and less freedom for those countries that had joined. Free trade, according to Buchanan, was to blame.

In truth, free trade has little if anything to do with so-called free-

trade zones. Free trade is the freedom to trade with whomever you wish anywhere. For a country it means demolishing its own tariff wall regardless of what the rest of the world does and allowing its people to trade and to reap the benefit of trade. Expanding its domestic market by joining with another or other countries and thereafter surrounding the zone with a tariff wall, such as the European Union, NAFTA or whatever is not free trade but common protection. Whether trade becomes freer depends on what happens to the overall tariff wall; more often than not in such cases, trade barriers actually increase in order to find common denominators to attract the various nation-states

participating,

When free trade NSW joined with the other former colonies to form the Commonwealth the price it paid for an expanded domestic market was a protectionist country. The epitome of free trade in recent times has not been the participating countries in any free trade zone or even the individual states of countries such as the USA or Australia but rather Hong Kong and to a lesser extent Singapore.

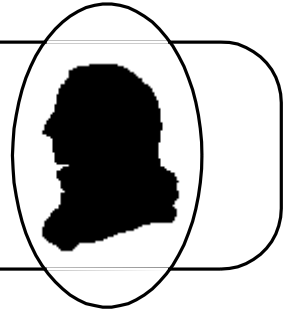
To a certain extent Buchanan is correct; the increase and growth in trade blocs is probably detrimental overall. However what it represents is not a swing towards free trade but rather an unwelcome resurgence of Mercantilism. *DBS*

VENUE ARRANGEMENTS

In order to control costs the Club is attempting a number of new formats for our meetings. For the Curry Club, 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. 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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MONEY MAKES THE WAR GO AROUND?

It was reported (Sunday Herald-Sun 13/4) that a debate has arisen over what currency should be used during the reconstruction of Iraq. As Iraqis ostentatiously use notes with Saddam's portrait to light their cigarettes the want of currency is worrying certain economists.

The Germans and French, ever helpful, suggested the Euro, or in a gesture of conciliation, the Euro and the US Dollar, as the means of daily transaction. The United States has yet to make any announcement of its position, but no one will be surprised if it is that the US Dollar or an ersatz freely convertible Iraqi note is the outcome. Of these suggestions the US Dollar is probably the best for the long term future of Iraq; it would not trade at a

discount when used for international exchange, there would be some restraint on debauching the currency (at least by Iraqi politicians), and there is no delay in supplying a currency which is recognised and acceptable to most merchants and consumers.

But is it the best system? As Adam Smith noted 'Money is not the ultimate object of any man's desires' (*LoJ* vi. 146). What is required is a system that is stable, encourages saving and investment and is convenient for merchant and consumer to carry and identify. This system is of course an ancient one - it is commodity money, most especially gold and silver. It resists debauch by Government and has a commonly referred value across the

world's markets. Smith in fact states that one of the few superior functions of Government is the true minting of coinage to give certified weight and quality to commodity money. He also notes the human tendency to abuse this trust.

For trade most financial institutions will give certificates of deposit, so transportation is unnecessary.

Although the pernicious tax man and other government functionaries will demand a government-controlled currency, 'let them eat cake'. Gold also has less political connotations for both the Euro and US Dollar have implications to the man in the 'suq'. Gold has been a standard in the markets of Asia for five thousand years. *TW*

FREE TO SHOP

In 1983 the Centre for Independent Studies published a minor classic called "Free to Shop". Written by Geoffrey Hogbin, then Assistant-Director of Monash University's Centre of Policy Studies, it critically examined, in a manner reminiscent of Adam Smith, the malaise then gripping Victoria, in particular the government regulatory regime which sought to control shop trading hours and arbitrarily determine who was permitted to trade and who was not.

At the time rebellious traders, including most notably hardware shop proprietor Frank Penhalluriack, were insisting on trading and were being savagely dealt with by the courts, which were struggling to uphold the letter of the law. Penhalluriack himself was eventually subjected to a massive fine and effectively a lengthy prison term for his defiance.

Hogbin's objective in writing his monograph was to analyse the arguments routinely used to justify the existing regulations, subject them to economic and logical analysis, determine what if any substance there was in them and then suggest, if appropriate, the likely real reason for the existence of such controls. Moreover unlike the numerous official, professional and academic inquiries which had previously sought to perform such a task, [and which had largely come to the same conclusions as himself], to do so in a manner that the average intelligent layman could read and understand.

Hogbin looked carefully at each of the various arguments advanced in support of the restrictions including alleged increased costs, equity and fairness for existing shopkeepers and staff, lack of consumer demand or benefit, loss of community cohesion and quality of life, economic efficiency and so forth. In all he found them lacking in substance, even specious, leading him to surmise on an underlying venality of various interests other than the public as the real reason for such regulation.

Written from a partisan viewpoint the book remained a work of scholarship. Hogbin summarised his conclusions in his final

chapter which was entitled "Why We Should be Free to Shop". Eventually reason prevailed and shop-trading restrictions in Victoria were largely abolished. What role, if any, Hogbin's book played in the eventual result is unclear.

Twenty years after Hogbin's book was published a new crop of politicians has arrived on the scene in Victoria. The unusual closeness of Easter and an Anzac Day long-weekend have provided a justification for the government to rush through new draconian shop trading restrictions. Predictably this has caused significant hardship to many businesses already struggling to survive in the present difficult times. The blow to Victoria's economy is significant; the loss to the hardware industry alone is reportedly estimated at \$33 million.

Equally predictably a number of traders have failed to comply with the new restrictions. Others, including some major ones, have threatened to do likewise if the restrictions are to be continued. Breaches of the law cannot be condoned but enforcement of a bad law threatens to bring the law into disrepute.

The question thus becomes whether the new restrictions are to continue and become general. [In this regard it is worth remembering that much of the previous regulation was the result of wartime stringencies including, those of WW1]. Such continued regulation would be bad and unlike most of last century, Victoria can no longer afford the luxury of bad regulation.

The time and effort required to acquire and maintain the spoils of office leave the typical politician with little of either left over to study the relevant economics and history. The same temptations that always exist to those in power exist about them. The patronage inherent in being able to determine who can trade and who can not is huge. Perhaps the CIS should send a copy of Geoffrey Hogbin's book to each member of Steve Bracks' government. *DBS*

BURNING CROSSES AND PRIVATE PROPERTY

The U.S. Supreme Court has delivered a significant judgment. The decision, which was handed down on 7 April 2003, was *Virginia v Black*. It concerned the question of whether the defendants in two separate prosecutions [joined for the purposes of the appeal], had a constitutionally protected right to burn a cross on private property. In a much discussed and criticised decision the Court ruled 6-3 that they did not.

Burning crosses in the U.S.A. is traditionally associated with the Ku Klux Klan, one of the nastiest and least desirable of groups with a long history of criminal activity and racist violence, although in one of the 2 cases it was not suggested that the KKK itself was actually involved.

The relevant statute provided; "It shall be unlawful for any person or persons, with the intent of intimidating any person or group of persons, to burn, or to be cause to be burned a cross on the property of another, a highway or other public place."

The case was argued and determined on the question of whether or not burning a cross was a category of speech protected by the provisions of the American Constitution and in particular the First Amendment which protects freedom of speech. Finding it did not, provoked much criticism.

For obvious reasons the case had split traditional civil rights groups in the USA; the NAACP legal group stayed out of the case, the People for the American Way

supported the legality of the legislation, whilst the ACLU saw it as a form of protected free speech.

For supporters of property rights however such as Adam Summers of Reason Foundation the real criticism had little to do with the question of free speech, although he noted that consistent with precedent the Court should have found that cross burning was a form of protected speech.

Rather what concerned Summers and other property rights supporters was the complete failure of the Court to heed the fundamental significance of the property rights involved and to draw a crucial distinction between the 2 cases. In the first, two intruders had entered uninvited into the property of another and burnt a cross. Clearly if such act was not protected free speech then the statute applied and they were guilty. Regardless of whether such speech in the abstract was protected however the intruders should have had no right to such freedom of expression contrary to the wishes of the owner.

In the second case Klan members had held a rally on private property at the invitation of the owner and with his consent. A consistent property rights approach would have simply denied the applicability of the statute to events taking place on another person's property but to which that person had consented. The reluctance of those concerned particularly the Court to take the obvious approach simply leads to a jurisprudential quagmire. *DBS*

On Sabbath Trade

Another important example of illegitimate interference with the rightful liberty of the individual, not simply threatened, but long since carried into triumphant effect, is Sabbatarian legislation. Without doubt, abstinence on one day in the week, so far as the exigencies of life permit, from the usual daily occupation, though in no respect religiously binding on any except Jews, is a highly beneficial custom. And inasmuch as this custom cannot be observed without a general consent to that effect among the industrious classes, therefore, in so far as some persons by working may impose the same necessity on others, it may be allowable and right that the law should guarantee to each the observance by others of the custom, by suspending the greater operations of industry on a particular day. But this justification, grounded on the direct interest which others have in each individual's observance of the practice, does not apply to the self-chosen occupations in which a person may think fit to employ his leisure; nor does it hold good, in the smallest degree, for legal restrictions on amusements. It is true that the amusement of some is the day's work of others; but the pleasure, not to say the useful recreation, of many, is worth the labour of a few, provided the occupation is freely chosen, and can be freely resigned. The operatives are perfectly right in thinking that if all worked on Sunday, seven days' work would have to be given for six days' wages: but so long as the great mass of employments are suspended, the small number who for the enjoyment of others must still work, obtain a proportional increase of earnings; and they are not obliged to follow those occupations, if they prefer leisure to emolument. If a further remedy is sought, it might be found in the establishment by custom of a holiday on some other day of the week for those particular classes of persons. The only ground, therefore, on which restrictions on Sunday amusements can be defended, must be that they are religiously wrong; a motive of legislation which never can be too earnestly protested against. "Deorum injuriæ Diis curæ." It remains to be proved that society or any of its officers holds a commission from on high to avenge any supposed offence to Omnipotence, which is not also a wrong to our fellow creatures. The notion that it is one man's duty that another should be religious, was the foundation of all the religious persecutions ever perpetrated, and if admitted, would fully justify them. Though the feeling which breaks out in the repeated attempts to stop railway travelling on Sunday, in the resistance to the opening of Museums, and the like, has not the cruelty of the old persecutors, the state of mind indicated by it is fundamentally the same. It is a determination not to tolerate others in doing what is permitted by their religion, because it is not permitted by the persecutor's religion. It is a belief that God not only abominates the act of the misbeliever, but will not hold us guiltless if we leave him unmolested.

John Stuart Mill, On Liberty, ch IV 'of the limits to the authority of society over the individual' OUP, Oxford: 1975 pp 110-112