

# From the Editor

MICHAEL WARBY

**T**HE articles by Peter Reith and Kerry Corke in this issue of the *Review* refer to just some of the technical problems contained within the proposed changes to the Australian Constitution that will be put to the people on November 6.

The concern here is not why we are being offered a republic with an indirectly-elected President although, given the overwhelming popular preference for a directly-elected President, that is certainly an interesting question in itself. The question is—regardless of anyone's preference about monarchy versus republic and a directly versus an indirectly elected President—why is this particular, very technically-flawed, proposal even being put to the people?

Our Constitution has underpinned an admirable history of stable, democratic government. As John Carroll observed recently in *The Australian Review of Books*, it is hard to imagine a more stable political regime than Australia's. We are blessed with one of the oldest, continually-operating written constitutions in the world and one, moreover, which, unlike the US and Swiss Constitutions, did not require a civil war to 'bed down'.

In reference to an article which criticized the presumption of most of the media that, if the Prime Minister is going to be a monarchist, he should not actually try seriously to persuade people to agree with him, one republican was recently moved to say:

I'm a Republican myself but can't understand why the Prime Minister is supposed to be, as you put it, 'a public cipher' on the issue. A significant proportion of the Australian population support the Monarchy and the Prime Minister is hardly on the fringe of opinion.

But the Prime Minister and other monarchists are very much on the fringe of media opinion, particularly that of the Canberra Press Gallery. Previous issues of the *Review* have carried references to Professor Henningham's study of press and public opinion which showed that journalists are much more republican than the general public. And this sentiment is being manifested in the media coverage of the issue. There seems to be a rule in opinion pages in the 'quality' press—any monarchist article has to be matched by a republican one: the converse does not apply. Can any of us remember media coverage on any issue in the last 25 years being as partisan as it is on the indirect-election republic?

Media partisanship may be the most important single reason for our being offered such a flawed proposal. Clement Attlee described democracy as 'government by discussion'. Within one, public scrutiny is crucial. If, however, the media prefer 'proving' to their colleagues how 'kosher' they are because they have the 'right' attitudes to performing their professional functions, then public scrutiny will fail. The indirect republicans don't have to make their proposal stand up to close scrutiny: their media guardians will frustrate any such scrutiny.

Paul Kelly is leading the media charge on this—as he did with the pillorying of John Howard's comments on Asian immigration back in 1988. When he is confronted with the technical problems of the proposal, Kelly's response is simply a version of 'trust us'. It will work because Australians will make it work.

This is, of course, an appeal to national vanity. It is a completely inadequate response. Constitutions are not built for people of good intentions displaying common sense about things upon which it is relatively easy to agree: if that were



always the case, we would not need a Constitution. Constitutions are built for the hard cases, the failure of commonality, the clash of principle.

What we are getting from most of the Australian media is moral vanity, and a consequent failure of professionalism. It is nowhere more marked than the stunningly puerile millenarianism—all that 'have to change by 2001' nonsense.

Journalists might reflect that the adoption of common attitudes reduces 'interpretative journalism' to the absurd: nothing more than the same value-set being disseminated across much of the media, particularly from the Canberra Press Gallery. The success of the relaunched *Bulletin*—where Max Walsh has clearly given instructions to his journalists to engage in good, old-fashioned straight reporting—suggests that this 1970s indulgence is something whose time has passed.

The media's moral vanity on immigration, multiculturalism and indigenous issues did a great deal to give Pauline Hanson her niche. Let us hope that the media's moral vanity on the republic does not inflict damage on our body politic through the replacement of a working monarchy with a deeply-flawed republic.

And there's a slogan for the 'No' campaign—'Annoy the media, vote No'.

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# From the Executive Director

MIKE NAHAN

## What Makes Silicon Valley Great

**W**HAT makes Silicon Valley in California such a success?

The world is scattered with hi-tech parks and failed imitations, yet there is nothing particularly mysterious about the Valley. Its inhabitants are by nature hardly secretive or poorly informed. The Valley has had a veritable horde of researchers combing its every nook and cranny. One such researcher is Professor Anna-Lee Saxenian of the University of California, Berkeley. Her book, *Regional Advantage: Culture and Competition in Silicon Valley and Route 128* (Harvard University Press, 1994), lucidly presents the keys to the Valley's success.

The Valley's success has had relatively little to do with government leadership. Having Stanford University (a private university) helped, but many other places had first-rate universities. The Cold War helped by increasing the demand for chips and computers, but the military has never been a dominant consumer of the Valley's wares. Government research funding helped, but it was never a major or driving force (though the release of skilled personnel from the downsized military has been a major 'peace dividend'). On only one occasion did Silicon Valley seek help from Washington—and most in the Valley still view the resulting Semiconductor Trade Agreement with shame.

Governments' main contribution—one that most imitators have failed to recognize—was masterful inactivity. They did not do things that would have messed it up, such as bailing out high-tech firms, putting up risk money or taking equity. They also played a crucial role with legislation that protected property, allowed risk-taking and the free flow of people and ideas as well as continuous change.

The real key to the Valley's success has been the presence of entre-



preneurs and a culture that attracts and keeps them. Some ingredients of this culture outlined by Professor Saxenian and relevant to would-be imitators are:

*Enthusiasm for Change.* The Valley thrives on change. Its firms are constantly evolving. Even the most venerable of Valley firms—Hewlett-Packard—has metamorphosed countless times. The Valley's workforce is also constantly on the move; changing firms, changing roles and taking on new skills. The technology market changes so quickly that any company or person who fails to adjust becomes obsolete and, as they say in the Valley, 'either we obsolete ourselves, or the competition will'.

*Risk-taking.* People in the Valley thrive on taking risk. Whereas in other places investors and workers seek to shed or minimize risk, the Valley's capitalists actively seek out risky ventures and the more the better. The Valley investors operate on the idea that, out of every 20 ventures, four will go bankrupt, six will stay in business but lose money, six will make a modest return, three will do well and one will hit the jackpot. Since failure goes with risk-taking, the Valley also tolerates failure. As Professor Saxenian describes it, 'in the Valley bankruptcy is treated like a duelling scar in a Prussian officers' mess'.

*Openness.* The Valley is open to migrants, women, the young and the different. Over 40 per cent of engineers working in the Valley are mi-

grants. There are more women CEOs in the Valley than anywhere else on Earth. Age, experience and appearance—which elsewhere get people promoted—are no help in the Valley.

*Obsessive Capitalists.* The Valley was founded by engineers who, though very interested in making money, were obsessed with the technology. As a result technology—the 'cool idea'—takes priority while not obscuring the aim of getting rich.

Professor Saxenian identifies the main lesson: you cannot regard the Valley as a machine where raw materials are poured into one end and firms and high-paying jobs pour out the other end. Rather it is a social ecosystem which needs the right soil, right climate and time to grow. Something no planner can make.

The failure of would-be imitators lies with their inability to accept the lessons of the Valley—particularly the role that it suggests for government.

One would expect the Howard Government and the Business Council of Australia (BCA) to have little trouble embracing the Valley's lessons about getting the fundamentals right. The Howard Government has reaped the political and economic benefits of doing so on fiscal policy, monetary policy and financial sector reform. It has had to pull the plug on the Multi-Function Polis, and therefore knows all about failed high-tech visions.

The BCA not only includes some of the major corporate players from the Valley such as Hewlett-Packard, but has been, in the past, the leading advocate of these lessons.

Yet the omens are not good. The Government and the BCA have commissioned a group led by Professor Peter Sheehan—the brains behind the failed Victorian Economic Development Commission—to craft an Innovation Strategy to present to an Innovation Summit. Such a Summit could be a good idea. A back-to-the-VEDC-revisited-future with government largesse and cheque-book leadership rather than masterful inactivity is definitely not.

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REVIEW

# Seven Fatal Flaws

PETER REITH

The Federal constitutional monarchy established by the Australian Constitution has lasted a century without a genuine crisis. Will the November 6 proposal do as well?

**I**N August, the Commonwealth Parliament settled the exact form of republic to be presented to the Australian people on 6 November 1999. There are a number of serious problems in the final referendum proposal which have not yet been widely publicly debated.

## FLAW 1—ARBITRARY DISMISSAL POWER

The proposed republic inverts the source of sovereignty by making the President's tenure completely dependent on the Prime Minister for appointment and dismissal. The Prime Minister would possess the power summarily to dismiss the President in writing.

Such a dismissal would be subject to a procedural vote by the lower house of Parliament but could not be undone. This toothless vote will not restore the President to office; it will not trigger an election; it will not involve the Senate and it will not unseat the Prime Minister.

Constitutional experts and political scientists agree that currently the Queen can refuse a Prime Minister's request to exercise reserve powers where there is an intent to breach the constitution or subvert the system of democratic government. This constitutional safeguard has been used on at least three occasions in the British Commonwealth.

The proposed republic would remove this check without replacing it with any alternative. In every other democratic republic in the world a president cannot be dismissed unless on specified grounds of misbehaviour or incapacity, and a due process must be followed to examine evidence.

According to Professor George Winterton, a public advocate for the 'Yes' case, 'Such presidential vulnerability is unprecedented among world republics and greater presidential security might have encouraged frankness between President and Prime Minister in a constitutional crisis like that of 1975.'

The Winterton assessment is a complete rebuttal of Mr Malcolm Fraser's recent and bizarre claim that the 'Yes'

model could have 'saved' the Whitlam Government.

In 1993, the Turnbull Committee argued strongly against an arbitrary Prime Ministerial power to dismiss a President. It stated that 'The Committee encountered an almost universal view that, regardless of the integrity of any Prime Minister, the head of state should not hold office at the Prime Minister's whim, and must be safe from in-

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stant removal to ensure appropriate impartiality.' This concern remains as valid now as it did then.

The proposed republic model posits *de facto* sovereignty in the Prime Minister and leaves the people powerless spectators in the choosing, and un-choosing, of the head of state.

## FLAW 2—PRIME MINISTER'S POWER TO APPOINT

Proponents of the so-called 'bipartisan' model argue that a political figure would not be appointed because the Opposition Leader must second the nomination which goes before Parliament. This claim ignores the likelihood that most appointments will be made as a result of a backroom deal between power-brokers in the established parties. Besides, the final Presidential nomination itself is chosen by the Prime Minister alone.

It is no safeguard that the Opposition Leader must second the nomination. The referendum proposal fails to define the term 'Leader of the Opposition'. A government can use its numbers in the House of Representatives to amend Standing Orders to redefine or remove a Leader of the Opposition.

We have, in essence, a two-party system today—but that could easily change in the future. Of 29 OECD nations, 23 have multi-party oppositions. It would not be unusual if a wider number of parties were elected in Australia over the next century. Yet in the proposed section 60, the Prime Minister does not need to get his nominee endorsed by all party leaders in the Parliament, even though the official Opposition may possibly have fewer politicians than other parties.

Most importantly, in this model, the Australian people themselves have no final say as to whether they would accept a Prime Minister's choice as President.

## FLAW 3—A PRESIDENT FOR LIFE

Another serious flaw is the absence of an effective expiry date for a President's term of office.

Proposed new section 61 purports to describe the President's term of office as five years, yet in the same sentence it allows an exception. This exception is that the tenure of each President will continue indefinitely until a new President can be found. Section 60 widens the loophole because it does not compel the Prime Minister to put a nomination for President. It only says he 'may' propose a nomination to Parliament.

Various scenarios can result from this. First a Prime Minister would only need to seek the ratification for an appointment from Parliament just once, and could avoid seeking a renewal of the President's term.

Other scenarios arise where Parliament becomes deadlocked on who to appoint as a successor. In this case the President can continue well beyond five years until either the incumbent Presi-

dent dies, resigns, is dismissed, or until Parliament surrenders to the Prime Minister's selection of a replacement. A Prime Minister can exploit this mechanism by nominating a partisan figure, who would clearly be unacceptable to opposition parties. This way the Prime

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## ***A 'Yes' vote in November will entrench a third-rate compromise, giving power to politicians they will never again relinquish***

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Minister cannot be accused of bypassing Parliament: instead he can contrive a deadlock which has the same effect.

Whichever loophole is used, a Prime Minister can keep a politically loyal President, even one who may have lapsed into partisanship, misdemeanours or incapacity. This system encourages Presidents to become politically biased, in return for a 'Life Peerage'.

As Harry Evans, Clerk of the Senate, says, 'A Prime Minister could keep a compliant President in office indefinitely, and ensure that compliance by offers of continuation of the presidential term'.

### **FLAW 4—CROWN REPRESENTATIVES AS PRESIDENT**

The main arguments for a republic are based on symbolism and emphasise separation from the British Crown. Yet the referendum proposal would create the symbolic contradiction of an incomplete republic. Under the proposed constitutional changes, if the Presidency falls vacant, then the most senior State Governor will automatically take over the President's powers. This job opening as 'Acting President' extends to the Governors of all States, including those which remain as monarchies. This would allow the anomaly of a Queen's representative acting as President of the republic.

Accordingly, it is false to claim that this republic would sever links to the Crown. Rather we would see an incomplete republic which could be pocketed

with State monarchies and even governed over by a Crown representative. This model has focused excessively on removing checks on Prime Ministerial power, and gives insufficient attention to creating a technically complete republic.

### **FLAW 5—COERCION OF THE STATES**

The proposed constitutional amendments say that States can remain as monarchies (Schedule 1, clause 5). By spelling out the obvious, this section creates a precedent that the Commonwealth Constitution should spell out State constitutional arrangements. This device might be used in future to coerce a State into arrangements against the will of its citizens.

This proposed interference with State constitutions has not had adequate expert scrutiny, just as there has been insufficient debate on the other transitional provisions, which would be squirrelled away in a 'Schedule' at the back of the Constitution.

### **FLAW 6—NATIONAL ICONS**

The main argument put by the proponents of the 'Yes' case is that a republic achieves a symbolic severing of foreign ties. This excessive focus on symbols implies, by extension, allowing Parliament to dump other 'symbols' which link Australia to its heritage.

Unlike the 'compromise' republicans who support the proposed model, for me, the value of a conversion to a republic is the opportunity it provides to give Australia a better system. A directly-elected president would not just be a symbolic change, it would provide for greater public participation in our democratic institutions.

The Australian Republican Movement has previously sponsored a competition for new flag designs and Malcolm Turnbull even became a director of Ausflag Ltd, a corporation which exists solely to change Australia's flag.

Paul Keating said to the Parliament in 1992, 'I make these points clear: I do regard the flag as an ambiguous representation of our nation and I believe it ought to be changed.'

Labor's original strategy was to push the republic and a change to the flag simultaneously. Public outrage at plans to tamper with the flag forced Labor's republicans to opt for a simple strategy – first change to a republic and then later change the flag. That is why the Coalition legislated to ensure that the flag can only be changed by plebiscite. However,

if a future government took up the Keating agenda, then they could use a simple vote in Parliament to repeal this plebiscite legislation and change the flag.

### **FLAW 7—MARRYING THE GOOD WITH THE BAD**

The November referendum will pose only one question, yet it packages together 69 separate changes to the Constitution. Together this swag of amendments will alter almost half the Constitution in a single hit.

Because there is much more in this republic model than meets the eye, the major changes should have been proposed by their supporters as clearly separate questions. It is not fair to expect the Australian public to accept 69 constitutional changes in one hit, encompassing a range of complex issues and unexplained agendas.

### **THE PATH TO A REPUBLIC**

Opinion polls have made it quite plain, over a number of years, that the Australian people want a President who they directly elect.

I have recently outlined a model for a republic with a directly-elected President, including key elements of its operation. This is a vision for a democratic republic where the President is constrained to non-executive powers. Other republics such as Ireland and Austria

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## ***A 'No' vote is a necessary first step on the road to a democratic participatory republic***

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have non-executive Presidents who are democratically elected by the people.

The 'Yes' republicans claim that this will establish a mandate for a competing source of political authority. They do not explain why a similar result would not arise under their proposal, where the President would have the vote of two houses of Parliament, against the Prime Minister's support in just one house.

Their claim implies that a non-executive President could illegally acquire executive powers without legal challenge or public outrage. It also ignores the capacity of the Parliament to legislate to restrict donations, limit campaigning and otherwise enact provisions to buttress the non-executive character of the office of President. In Ireland, elected presidents have respected the limits of their position.

Supporters of the proposed model believe that public nominations provide a sufficient sop to the democratic spirit. Professor Craven argues that some candidates may receive 'thousands of public nominations'—a form of elite-level political campaigning. But they do not believe that Australians are intelligent enough to participate in the final selection of candidate and want this power reserved for politicians. They never justify why the wisdom of the politicians is superior.

Such a system would only strengthen the sense of alienation in our political system which has been growing for many years. The perceived legitimacy of our constitutional system is not a trifling matter.

Given the numerous flaws in the proposed republic model, it is over-optimistic to hope for a patch-up job in future referenda. If a model is misconceived in principle and so defective in design that it requires immediate repair, then it does not offer a better system of government.

In 1898, the original model for Federation failed to receive sufficient votes at referendum. An improved model was then accepted a year later. I believe that Australians should only vote for constitutional changes which are constructed in a measured way. If the current proposal fails at the ballot box, then a better republican model should be drafted, based on popular election. It should be drafted and scrutinized by a new Constitutional Convention and then submitted to the people at a subsequent referendum.

A 'Yes' vote in November will entrench a third-rate compromise, giving power to politicians which they will never again relinquish. A 'No' vote is a necessary first step on the road to a democratic participatory republic.

*The Hon. Peter Reith MP is Commonwealth Minister for Employment, Workplace Relations & Small Business.*

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# The 'R' Files

ALAN MORAN

## Shuffling the Deck on Gambling

### THE AUSTRALIAN GAMING INDUSTRY

This industry is large and has grown rapidly over recent years as liberalization has been introduced in most States. It employs about 110,000 people, takes net revenues of \$11 billion and is responsible for a net \$6 billion in GDP. This last figure approaches 1.5 per cent of GDP. In employment terms, the industry is rather larger than mining and about twice the size of gas, electricity and water.

Like any other avenue of spending, gambling brings benefits to the buyers that are greater than those they gain from their alternative spending patterns. Gaming expenditure is money spent on pastimes which people, in their consumption decisions, value above their alternative expenditure choices. The overwhelming economic case for gambling is the same as that for any other activity that people enjoy: opera, mountain climbing, eating out, etc. Denial of the opportunity to engage in these activities reduces the real income of those affected. It shifts their spending to other goods and services from which they obtain less value.

The Productivity Commission puts the gross benefits from gambling by consumers—over and above the benefits they would obtain from spending the same money on their next best preferences—at between \$8 and \$11.3 billion.

It downgrades these estimates to \$5-6 billion by excluding most of the pleasure obtained by 'problem gamblers'. The Commission continues its alchemy by then reducing benefits further by adding costs of lost productivity, marriage breakdown, depression, thought of suicide and a host of other factors. These are said to amount to between \$1.1 and \$5.2 billion per year. The 'problem gamblers', according to the Commission, represent 35 per cent of total spending. There is considerable debate about how to treat the satisfaction this group gains from gambling: the Commission effectively treats their free choices as negative income.

The Commission estimates that the net annual benefit ranges from a slender



\$150 million to \$5.2 billion. And, as the Commission says, over the long term—because consumers who are denied their preferred expenditures shift to their next best preferences—the measured economic costs of not having gambling will be appreciably less than this. This is the case with all goods and services.

The net benefits of gambling could be undermined by one of two caveats:

- that people, or large numbers of people, are enticed into the activity in such a way that it makes them unhappy—the 'addiction' issue; or
- that the activity encourages a set of values that have the capacity to undermine the basic fabric of mutual respect, and general concern for the community as a whole, which is the glue holding together society.

### PROBLEM GAMBLING

How great is problem usage? To measure this, the South Oaks Gambling Screen is the Commission's test of choice. If a person scores 5 or more (SOG 5) out of a possible 20, they are deemed to be a pathological gambler. But as the Commission acknowledges, the test is a screen and will over-state numbers. And although it says that there are 329,000 problem gamblers, it also argues that only half of these report a significant problem (cf. 90 per cent of those with a score of SOG 10).

While a great many goods and services are over-consumed by certain people, we do not, as a rule, use this as a reason to deny usage. The first survey of gamblers conducted in Australia put problem usage at a level of SOG 10 because SOG 5 classed an implausible 6.6 per cent of the

population as problem gamblers. The Commission's more recent choice in its survey of SOG 5 gave a result of 2.3 per cent. The adoption of this share, and the associated 329,000 problem gamblers is arbitrary. It could be 0.97 per cent (Dickerson method), 1.72 per cent (HARM), or 1.5 per cent (Roy Morgan for the Victorian Casino and Gaming Authority). If the barrier is raised to a 10 score on the SOG, the proportion of problem gamblers becomes 0.35 per cent for both the Commission and Roy Morgan. Clearly, the figure is meaningless as a scientific measure.

The problem gambler as defined by the Commission spends, on average, \$7-12,000 per year. Though very large, these figures do not suggest a crisis. Many people spend considerably more than these sums on their cars, others follow sports pastimes like boating, motor sports and hunting that entail larger sums. Still others collect coins, stamps, or, for all I know, French clocks with a mania that seriously depletes their otherwise disposable income. The data seems to be manipulated to fit preconceptions of the issue's magnitude.

The Commission did not seek to place problem gambling within a wider perspective. A report from the University of Chicago has the following table:

Type of problem	Annual cost (US\$b)	Prevalence (million)	Annual cost per person (US\$)
Problem gambling	5	5.4	900
Drug abuse	110	6.7	10,000
Alcohol abuse	166	13.8	7,000
Motor vehicle crash	71	19.0	3600
Smoking	72	46.0	1,500

In the US, problem gambling is estimated to impose less than three per cent of the costs of alcohol abuse, less than five per cent of drug abuse and about eight per cent of the costs of smoking.

### GAMBLING AND CIVIL SOCIETY

Many of us oppose the legalization of drugs because these mind-altering substances, if widely used, may transform the way in which people view their roles and responsibilities in society. Alcohol may have a similar effect in certain societies but in mainstream Western societies, a thousand generations of use has created sufficient tolerance for it not to pose a threat to civil society. Even so, as the preceding table indicates, alcohol availability does mean

that perhaps five percent of the population are serious abusers, if not alcoholics.

The Commission's report quotes the Lutherans, Shakers and others as suggesting that gambling may be undermining society and creating a greedier, self-centred mind-set. This is unconvincing, however. On any criteria, at least 97 per cent of people enjoy gambling without it overwhelming their lives and with apparently little impact on their other activities. The apparent growth of gambling over the past ten years has not transformed the way we interact with each other. People in NSW—who have had much greater opportunities to gamble than those in other States—do not seem to have a different world view to other Australians.

### THE PRODUCTIVITY COMMISSION REPORT

The Productivity Commission's report is unusual for the Commission. It tackles the issue of gambling from a largely socio-psychological perspective, one in which the Commission has no expertise. It seems to wish to highlight gee-whizz numbers in a manner that the Commission has largely eschewed in the past. In the process, it often produces factoids rather than uncovering facts. Thus, for example:

- Its use of a multiplier dramatises the issue of problem gambling. By saying that each problem gambler affects up to ten people, some construe the problem to affect a quarter of the population. Multipliers like this mean that the total number affected from all factors is considerably greater than 100 per cent. Because they obfuscate rather than illuminate, the Commission has always in the past avoided their use.
- It uses a market estimate that allows the sensational but erroneous figure of 21 per cent as Australia's share of the world gaming machine market.
- It counts flow-on costs to problem gamblers' families, but does not count the flow-on benefits obtained from the obvious enjoyment that 97 per cent of gamblers obtain from their spending.
- It talks at length about suicide and gambling, suggesting that 28,000 problem gamblers had seriously considered it. Yet, tragic as any suicide is, gambling is shown to be a contributory cause in only 1-2 per cent of suicides a year.
- Caps on the number of machines would

normally be a total anathema to the Commission. Even an extortionate tax is preferable to a quantity control. And the Commission does reject caps and selective bans. But it does so by saying that the present restrictions should be kept in place. Caps, as the report recognizes, shift demand to make more intensive use of existing machines and can eventually lead to queuing. This is responsible for expenditure per machine in Victoria, which has relatively few machines per person, being considerably higher than in NSW and SA. Caps inconvenience the consumer and lead to excess profits by the provider.

- Finally, there is the treatment of taxation. The Commission notes that gambling taxes are very high but prevaricates over whether these taxes combat problem gambling. Its commissioned research demonstrated a net annual gain to well-being of \$475-735 million from a 10 per cent tax cut. It recognized that gambling taxes impact more harshly on the poor, but it concluded that the case for significantly reducing taxes on efficiency grounds had not been made!
- Yet, the Commission's report does say a great many sensible things:
- it opposes different treatment of different outlets, which has long given the clubs an unwarranted competitive advantage over pubs;
  - it does recognize that, for the great majority of Australians, gambling is a pleasurable activity and these majority pleasures should not be much curtailed by problems that may exist for a small proportion of people;
  - it opposes, in general, restrictions on competition in gaming; and
  - on balance it comes down against caps on the numbers of machines.

### SOME FINAL COMMENTS

Our society is based on tolerance. Even if gamblers were a minority, it would be no more legitimate to deny them their preferred leisure activities than to deny anyone else their legitimate pursuits. It certainly makes less sense than denying preferred pleasures to mountain climbers, extreme sports enthusiasts or fans of other activities, some of which may impose costs on the rest of the community.

All of this would be accepted by the Productivity Commission. Yet, in response to its rhetoric, both NSW and Victoria have announced moratoriums on new expansion of gaming.

*Alan Moran is the Director, Deregulation Unit at the Institute of Public Affairs.*



# Morgen Die Welt

## The EU's 'Green Imperialism'

JEREMY RABKIN

**A**RE you 'very proud of your nationality'? An international survey posed this question to people in 43 countries in the early 1990s. Only 19 per cent of Germans said yes, a smaller proportion than in any other country in the survey.<sup>1</sup> Not surprisingly, Germans are also among the strongest supporters of European integration: a great many people in Germany find it preferable to classify themselves as Europeans rather than Germans.

Yet there continue to be notable differences among the different countries of the European Union. German culture has long had a particular preoccupation with purity and cleansing. Similar cultural dispositions are also evident in neighbouring Protestant countries (though they were, of course, differently expressed there in the first decades of this century). Thus, in the above survey, Nordic countries in Europe ranked higher than any other in the priority they gave to environmental protection. By contrast, the Catholic countries in the EU ranked near the bottom in this world survey (with most English-speaking countries somewhere in the middle).<sup>2</sup>

Yet again and again, when the European Union establishes common environmental standards for its member states, what emerges are the standards favoured by the Germans (and the Nordic states). As a recent study observed, 'The European Union has become a vehicle for exporting the environmental standards of Europe's greener nations to the rest of the continent.'<sup>3</sup>

Meanwhile, we have begun to see a great increase in international environmental regulation. And the most consistent and committed champions of such programmes are the same countries in northern Europe that have done so much to force the greening of EU policy. Will they do to the world at large what they have done in Europe?

In fact, international programmes have many of the same features as EU policy. Just as a succession of treaties have delegated vast powers to a central

bureaucratic authority in Europe—the European Commission in Brussels—so international treaties have begun to establish centralized administrative bodies, which can supplement (and, perhaps, ultimately supplant) the traditional pattern of state-to-state bargaining in international affairs.

Equally striking is the degree to which international programmes have enlisted the service and support of non-government organizations. In Europe, nearly ten per cent of the EU budget goes to the support of non-government organizations (NGOs) and a considerable proportion of that goes to environ-

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mental advocacy organizations. So all six of the major environmental advocacy groups with permanent staffs in Brussels receive sizeable financial support from the EU. This support makes obvious sense for European bureaucrats in Brussels: these European-wide advocacy groups help to mobilize public support for EU policies, countering the influence of national parliaments and governments in the member states, which are often in a position of rivalry or tension with EU authorities. At the international level, we again find environmental advocacy groups given a visible and prominent role by organizers of international conferences—and for much the same reason.

International environmental programmes have begun to extrapolate EU practices in yet a third way, by offering financial inducements to cajole reluctant states into co-operation. In the EU, sizeable payments go to a special 'cohesion fund' designed to compensate less affluent states for adhering to costly European regulatory standards, easing their resistance to Nordic environmental norms. Somewhat in the same way, international programmes have offered financial inducements for less developed countries in Asia and elsewhere to sign on to environmental standards favoured by the EU and Western states.

There is a catch, however—in the EU itself, as in the wider world. EU environmental policy gained momentum only after the Single European Market agreement of 1986, when countries with higher environmental standards began to fear competition from countries with lower standards. So the staff of DG XI—the directorate of the European Commission with special responsibility for the environment—expanded from 55 in 1986 to 450 in 1992 and more environmental directives were issued in the last two years of that interval than in the preceding two decades. These new standards proved to be extremely alert to business concerns in the 'greener' states: 'of the main influences,' concludes a recent survey of EU policy-making, 'economic motives seem to provide the most important authority behind the development of European environmental policy.'<sup>4</sup>

At just the same time, the EU (which has a diplomatic presence at international conferences) began to push for global agreements where commercial interests in Europe happened to coincide with green enthusiasms. In treaties to protect the ozone layer, for example, Europeans successfully pushed for bans on the production and use of chlorofluorocarbons—the replacements for which (most especially for refrigerants) happened to be supplied by European (and US) chemical producers, with secure, new patents. In the 1997 climate

change treaty negotiated at Kyoto, Europeans successfully pushed for reductions in the emission of 'greenhouse emissions' below the levels of 1990—just the year when Germany and the UK began phasing out coal use and so were already (for other reasons) curtailing their own emissions. Under the Basel Convention on trade in hazardous wastes, the EU countries established a cartel on recycling, which prevents outside countries from competing with European recycling businesses and excludes even relatively developed countries like Monaco and Israel from participating.

To induce developing countries to co-operate, special assistance funds have been organized. The World Bank has established a special Global Environmental Facility, offering low-interest loans to poor countries to help them comply with new international standards. But the issue of the hour is whether the EU will succeed in its demands to have the World Trade Organization incorporate new global environmental treaties into its own standards, so that trade sanctions (or duties against 'eco-dumping') can be imposed on countries that fail to comply with new environmental standards. Already there have been serious proposals from Europe for a new 'World Environment Organization' to supervise compliance with new standards and mesh them with trade norms. At that point, we will be seeing something like a global EU. Who will really benefit from it? This is a question we should all be asking now.

## NOTES

- 1 Ronald Inglehart, *Modernization and Postmodernization: Cultural, Economic and Political Change in 43 Countries*, Princeton University Press, 1997, page 86.
- 2 Ronald Inglehart, 'Public Support for Environmental Protection: Objective Problems and Subjective Values in 43 Societies', *PS: Political Science and Politics*, March 1995, page 61.
- 3 David Vogel, *Trading Up: Consumer and Environmental Regulation in a Global Economy*, Harvard University Press, 1996, page 97.
- 4 Justin Greenwood, *Representing Interests in the European Union*, London: Macmillan, 1997, page 181.

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IPAA

# Letter on America

NIGEL ASHFORD

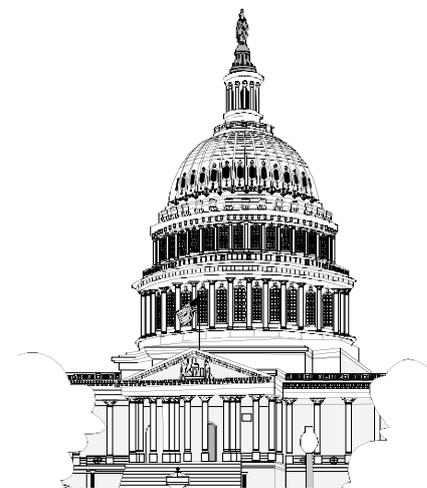
## George W. Bush and compassionate conservatism: rhetoric or substance?

**A**CCORDING to opinion polls, the next President of the United States will be George W. Bush, Governor of Texas and son of President George Bush. He is the front-runner for the Republican nomination, way ahead of his nearest challengers, Elizabeth Dole and Steve Forbes. In polls, he soundly beats the likely Democratic nominee, Vice President Al Gore, by as much as 54 per cent to 41 per cent. It would be unwise to attach too much significance to polls so early in the campaign. More importantly for now, Bush has stimulated debate by espousing a philosophy he calls 'compassionate conservatism'. What does it mean? Is it just fine rhetoric, or does it have real substance? Does it have anything to contribute to conservative thought as it redefines itself for the next century?

Bush defines his philosophy in this way: 'It is conservative to cut taxes and compassionate to give people more money to spend. It is conservative to insist upon local control of schools and high standards and results. It is compassionate to make sure every single child learns to read and no one is left behind.' This is not a definition, but a set of soundbites. Does it have any meaning?

The phrase is lambasted by his competitors amongst Republicans. Some view it as an insult that implies that conservatives are not compassionate. It only reinforces Democratic propaganda claiming that Republicans do not care about children, parents, the elderly, the sick. For some, 'compassion' is just another word for more government spending of taxpayers' money. Others criticize it as vacuous, meaning nothing or everything depending on the listener.

Multimillionaire businessman and rival Steve Forbes, best known for his advocacy of a flat tax, stated that 'Mealy-mouthed rhetoric and poll-tested clichés are no substitute for a muscular and sub-



stantive agenda.' Former Vice President Dan Quayle told supporters:

I have ordered my staff to never, ever, utter the words 'compassionate conservatism'. This is a silly and insulting term created by liberal Republicans and is nothing more than code for surrendering our values and principles.

Lamar Alexander, President Bush's Secretary of Education, described them as weasel words, 'words that are clearly and deliberately put together to confuse people by meaning nothing.' Alluding to President Bush, Alexander recalled 'a time not long ago when conservatives were told to be "kinder and gentler" and soon we were qualifying our principles' and losing the White House. 'We should be electing a president who doesn't mince words, doesn't fudge the issues.'

I believe that 'compassionate conservatism' is more than rhetoric or weasel words. It has a set of principles, substantive policies and intellectual integrity. It has useful lessons for conservatives, but also poses some real dangers. There is much here that conservatives around the world should thoughtfully ponder, but only partially embrace.

Compassionate conservatism is best summed up as: government does not work well, markets are good but not enough, and civil society is the way forward. Bush expresses this rather clumsily. 'My guiding principle is government if necessary, but not necessarily government.' Bush unfortunately shares some of his father's inarticulate speech patterns, but he does have 'the vision thing'.

I identify his principles as (1) society's problems are cultural, not economic, (2) ▶

the promotion of individual responsibility, (3) support for civil society, (4) activist government when necessary, and (5) inclusiveness, that all should feel part of society.

At the centre of Clinton's campaign in 1992 was the phrase, 'It's the economy, stupid.' For Bush, it is the culture that matters above all. Get that right and the economy will look after itself. Bush has not defined what he means by the culture, but it appears to be the values and beliefs of the people. He welcomes a strong economy but warns that it is not enough. 'Our dream for all Texans should be based not just on prosperity, but on that which makes prosperity worthwhile.' A close adviser, Charlie Black, claims that Bush 'has spoken out not for government to impose its values,' but that leaders must be prepared 'to tell people there is a difference between right and wrong.'

*The Economist* labelled him as 'Counter-counter-culture Bush.' He blames the babyboomer generation for a foolish tolerance of casual sex and drugs. He admits that he spent his youth 'drinking and carousing,' and indulging in sex. He underwent a conversion at the age of 40, abstained from alcohol and maintains he has always been faithful to his wife. He is influenced by Myron Magnet, the author of *The Dream and the Nightmare: The Sixties Legacy to the Underclass*. Magnet regards the problems facing the underclass as a result of the values from the sixties—on sex, family and drugs—trickling down from the middle classes to weaker and vulnerable members of society.

Bush's solution to the crisis in values is to emphasize personal responsibility. 'Our philosophy says that people must take responsibility for their own lives and actions. It says that all Texans must be held accountable for their actions.' Using examples of criminals and absentee fathers, Bush says, 'I worry about a culture which says, "If it feels good, do it, and if you have a problem, blame someone else."' Compassion for others also requires direct personal responsibility, which cannot be shifted to the state, as Bush adviser Marvin Olasky explains in his book *The Tragedy of American Compassion*.

Bush recognizes, however, that government does not have a good record in encouraging responsibility or solving social problems. Frequently, if unintentionally, it makes them worse. Such problems are best solved by strengthening programmes run by civil society, private voluntary groups, community associations and churches, rather than government.

Government has a responsibility to assist those in need. The market, family

and civil society can fulfil most functions, but not all. Bush-style programmes include: welfare-to-work, tax incentives for poor neighbourhoods and substantial increased spending on education. Bush's domestic adviser and Mayor of Indianapolis, Steve Goldsmith, expresses it this way:

It is the marketplace which creates value, but there are individuals for whom the marketplace isn't working, and there is a role for government in facilitating opportunity inside the marketplace.

Bush fears that America has become too polarized, too fragmented, too tribalized. A way must be found to create a sense of belonging by all groups to soci-

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ety. Conservatives sometimes define themselves by their enemies, and make themselves unwelcome to many who share their basic values but not their typical background. Charlie Black states:

When he says compassionate conservatism, he means conservative policies that address 100% of the people, 100% of the problem, and lift everyone up as opposed to the type of conservatism that might be divisive, polarising or appear to be discriminatory against some groups.

Bush wants an inclusive conservatism that embraces African Americans, Hispanics, Asian Americans and gays.

It is too early to say how these principles translate into policies. Eventually he will have to address the whole range of issues, including foreign policy, in which he confesses to be weak. Clues are found in his priorities as Governor: improving education, reforming welfare, supporting the family, fighting crime and lowering taxes.

In his top priority of education, he advocates rigorous testing and accountability, local control of schools and less bureaucracy, school choice through char-

ter schools and education vouchers, and literacy programmes based on the phonics method. He supports 'welfare to work', and the use of private, voluntary and faith-based institutions to assist those in trouble. He believes in sexual abstinence before marriage. Like Mayor Rudolph Giuliani of New York, he has a zero tolerance policy on crime. He wants to cut taxes, and has signed the Taxpayer Protection Pledge that he will not increase the marginal rate of income and business taxes.

So what should we make of compassionate conservatism? Its strengths are, firstly, its recognition that compassion is not alien to conservatism. Conservatives should not be afraid to use the term correctly and issue a reminder that spending other people's money is not an exercise in compassion. Second, it reinforces the centrality of personal responsibility for one's actions, and attacks the victim mentality. Third, it promotes civil society, the private and voluntary organizations that contribute to a healthy society. Fourth, Bush recognizes that the functions of government must be done efficiently and compassionately. Finally, he believes that conservatism can embrace all types of people and must be inclusive.

There are, however, considerable dangers if compassionate conservatism is accepted uncritically. First, it is not the responsibility of government to tell people how to live good lives. The President should not be the preacher-in-chief. Government exists to enable people to pursue their own version of the good life, as long as it is not at the expense of others. Second, Bush says very little about what governments should not do, the limits of government. There are still many areas where the state needs to withdraw. Only then can it concentrate on what only it can and must do. Third, he seems to believe that spending money is the solution to problems that are the state's responsibility. This is most visible in his favourite area of education, even while research shows no correlation between increasing expenditure and improving results. Finally, conservatism is not primarily about efficiency and compassion but freedom, a word rarely found in Bush's mouth. I will watch Bush's campaign very closely to see whether it is my hopes or my fears that are most justified.

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**IPA**

**REVIEW**

# Petrol Prices: Fair or Not?

COLIN WATSON

If petrol becomes more expensive, prices go up. Is this surprising?

**T**HERE has been a lot of recent media coverage regarding petrol price rises. The Melbourne *Herald Sun* banner headline of 6 August 1999 declared 'Petrol fury'. A headline in the *Sydney Morning Herald* pronounced 'Motorists urged to dob in petrol cheats'. Nothing seems to stir the community to anger quite like a jump in petrol prices, except maybe hikes in bank fees and charges.

For decades, oil companies have been on the receiving end of bad publicity and miserable press coverage. Some of this is more than justified.

It all started with the original evil oil company that captured a virtual monopoly over the American oil refining industry, the Standard Oil Company, headed by John D. Rockefeller. The Standard Oil Company was eventually broken up by court order after legal action was initiated by antitrust authorities in the United States. Indeed, three out of the four oil refining companies in Australia today can trace back at least some part of their lineage to the Standard Oil Company.

Oil companies have developed a tense relationship with antitrust authorities throughout most of the world. Australia is no exception. The Australian Competition and Consumer Commission, and its predecessor, the Trade Practices Commission, have litigated numerous cases in the oil industry, with mixed success, for breaches of the *Trade Practices Act*, in particular price-fixing and resale price maintenance.

Are claims that petrol prices are too high correct? Do popular stereotypes—that oil companies are ripping off the public through petrol price rises—ring true? Do the oil companies behave like a cartel?

Petrol prices in Australia at the time of writing are hovering between 70 and 80 cents a litre in most of the capital cities and are often much higher in country areas.

The largest component in the price of petrol at the bowser is tax. Commonwealth excise on unleaded petrol is currently just over 43 cents a litre. Around

8.2 cents of this goes back to State and Territory governments, some of which use it to subsidize and reduce the cost of petrol by some amount. In Victoria, for example, 1.1 cents is returned to motorists in the form of lower petrol prices; in Queensland the entire amount is used to reduce the price.

Another major component in the price of petrol is the cost of crude oil. Crude oil is the main ingredient in the oil refining process from which all petroleum-based products are made. Although Australia does produce and export some crude oil of its own, more than 50 per cent of the crude oil used in Australian refineries comes from overseas. This makes Australian petrol prices heavily dependent on the international price of crude oil. The price of crude oil is generally denoted in barrels, which are equal to roughly 159 litres.

The price of Malaysian Tapis crude oil, the benchmark crude oil in the Asian region, has risen from US\$10.95 a barrel last December, to US\$11.50 a barrel in Feb-

ruary, to about US\$21.65 a barrel in mid-August. Other varieties of crude oil have had similar price rises during this year. The main reason for this price rise is the production cuts in crude oil made by the Organization of Petroleum Exporting Countries (OPEC), which have consequently pushed up the world price of crude oil.

Converting crude oil prices from barrels into litres and US dollars into Australian currency indicates a crude oil price of 10.6 cents a litre in December, 11.1 cents in February, rising to 20.9 cents in mid-August.

After allowing for taxation and the price of crude oil, the rest of the retail price of petrol has to cover refinery production costs, the cost of distribution and transportation to the retail market, advertising and marketing, the cost of operating service stations as well as any overhead administration costs. After taxes and the price of crude oil are taken into account, it does not leave much to cover these other expenses.

High profitability within an industry has sometimes been used by economists as an indicator of market and/or monopoly power. According to a survey conducted by Ernst & Young on behalf of the Australian Institute of Petroleum, profitability for the domestic refining and marketing companies has been less than spectacular. It found that the net underlying return on shareholders' funds was only 5.3 per cent in 1997, as compared to the average yield on 10-year Treasury bonds during 1997 of 6.9 per cent.

Treasury bonds are used as a proxy for a (relatively) risk-free investment vehicle as compared to other investment opportunities because they are issued by the Australian Government. During 1997, the domestic refiners would have been better off investing in Treasury bonds than risking their money by investing in their Australian refining and marketing operations.

So what have the critics been accusing the major oil companies of?

Recent media criticism of high petrol prices and the oil companies has been spearheaded by the New South Wales Minister for Consumer Affairs, Mr John Watkins. Mr Watkins has called on the Australian Competition and Consumer Commission to investigate what he has described as 'outrageously high' petrol prices in regional NSW, declaring that 'It's the major oil companies that do have a lot to answer for'. Mr Watkins has been blaming 'greedy' oil companies for recent petrol price hikes and the failure of the Federal Government's moves towards deregulation of the retail industry. ▶

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**Australian petrol prices [are] heavily dependent on the international price of crude oil**

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If Mr Watkins had managed to get himself a copy of the ACCC's 1996 report on the retail petrol market (*Inquiry into the Petroleum Products Declaration*) he might have discovered some of the answers. Aside from higher transport costs, the ACCC identified a number of other reasons for petrol prices being much higher in the country than in the city.

The ACCC found that there were far too many service stations selling low volumes of petrol, requiring much higher retail margins than required in the cities just to remain viable. In other words, too many retail outlets chasing a limited amount of business.

It also found that there was a general lack of competition in country retail petrol markets, with retailers much preferring to accommodate the opposition rather than compete against it. The ACCC did not, however, absolve the oil companies from blame altogether, finding that there was some evidence to suggest that oil companies extracted higher fees and royalty payments from country service station franchisees.

The President of the NRMA, the largest motoring organization in the country, Mr Nick Whitlam, has called on the ACCC to launch an inquiry into petrol prices. There have been 40 inquiries into the oil industry since the 1970s. During the 1990s, there have been five State and Territory-based inquiries, as well as two Federal inquiries. No other industry could claim this level of scrutiny and examination.

Never one to miss a media opportunity, the Chairman of the ACCC, Professor Allan Fels, has also weighed in on the issue. He was questioned on the ABC's 7.30 Report about price boards at service stations and how this allows the major oil companies to find out their rivals' price. In responding to a question on whether this amounted to illegal tacit price collusion, Professor Fels replied: 'On the whole, we have thought that means of signalling to one another is just inside the law, just safe, but it's fairly close.'

When making this observation, Professor Fels obviously forgot about recommendation 9 from the ACCC's 1996 report that states: 'The State and Territory Governments give consideration to the mandatory display of price boards at service stations.' What was suggested as a good idea by the ACCC in 1996 to promote competition has undergone a transformation to tacit price collusion by 1999.

The Federal Labor Opposition has been blaming the Government's deregulation package for recent petrol price rises. Shadow Assistant Treasurer Kelvin

Thompson said that the reason for recent price rises was 'the Government's abandonment of wholesale price maximums and price monitoring by the ACCC in August last year.'

Up until August last year, petrol prices had been subject to some form of price regulation since the beginning of the Second World War. The most recent manifestation of this was the maximum endorsed wholesale price which was set daily

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## ***There have been 40 inquiries into the oil industry since the 1970s ... no other industry could claim this level of scrutiny***

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by the ACCC. It was based on the imported price of petrol from Singapore, the closest major refining centre to Australia.

The former Industry Commission (now Productivity Commission) in its 1994 report into petroleum products recommended that the maximum endorsed wholesale price should be scrapped. It found that it was not a constraint on pricing in metropolitan areas, noting that it may even have acted as a target price at the end of a discount cycle. Even the ACCC in its 1996 report recommended that petrol price controls should be removed.

Given recent increases in the international price of crude oil, it is extremely doubtful that continued price regulation would have done anything to prevent recent petrol price rises, contrary to Mr Thompson's assertion.

Another cause of complaint amongst motorists in the capital cities is the massive price fluctuations that are observed. The ACCC in its 1996 report found that:

it appears that petrol price cycles in some capital cities are generally linked to weekly fluctuations in demand, continuing excess product at refineries, the threat of or land of imports, the presence of independent chains and competition for sale share.

The ACCC also hinted at possible motives on the part of the major oil companies of predatory pricing (pricing be-

low cost in order to drive your opposition out of business). This all sounds pretty much like a normal competitive market process, however, with the forces of supply and demand ultimately determining prices at the end of the day.

In its report, the ACCC concluded that:

Retail price levels in Australia appear relatively low by international standards, despite the high concentration of companies and the relatively low level of demand, and apparently profitability is not excessive.

The major oil companies are also subject to legislation that restricts the number of retail outlets that they can directly own and operate—the *Petroleum Marketing Retail Sites Act 1980 (Sites Act)*. The Fraser Government introduced this legislation in order to counter the perceived evils of vertical integration within the industry. This has forced the major oil companies to franchise out most of their retail network. This restriction, imposed on the commercial freedom of the major oil companies, is unprecedented in Australia.

This means that at most retail service stations, the major oil companies have no direct control over the pump price of petrol and any attempt to do so would risk possible breaches of the *Trade Practices Act*.

The major oil companies claim that the *Sites Act* has hampered their attempts at service station site rationalization. They claim that this has led to many service stations remaining in business with low sales volumes and requiring higher retail margins to survive, consequently pushing up the price of petrol to consumers.

The current Federal Government has accepted this argument and is attempting to repeal the *Sites Act*. This is being thwarted, however, by opposition from the Labor Party and minor parties in the Senate.

All this adds up to the fact that the major oil companies in Australia are not quite the villains and rip-off merchants that they are often portrayed to be by politicians and the media. With the lethal combination of the media and politicians on the warpath over petrol prices at the moment, the latest 'regulatory solution' to the ongoing problem of high petrol prices cannot be too far away. Maybe it is about time we had a little less regulation in the petrol industry. This is a novel solution that could actually make the price at the bowser far more palatable.

*Colin Watson is a public policy analyst based in Melbourne.*

**I P A**

**REVIEW**

# Amnesty Infomercial

PETER PHELPS

**W**HEN Amnesty International was formed in 1961, its charter sought a nobler future for mankind. It called on nations to adopt three desiderata: the end to torture and the death penalty; prompt and fair trials for political prisoners; and the release of all prisoners of conscience who had not condoned violence. In the midst of the Cold War, Amnesty was a beacon to prisoners of conscience languishing in the Gulags of the Soviet empire and the work camps of Communist China. It was an institution whose time had come.

Today, its time has passed. Rather than attack real abuses of human rights, it has lost sight of its original objectives. It has become, like Greenpeace, the Wilderness Society and ACOSS, yet another self-perpetuating bureaucracy. More effort is directed into recruiting new members, whose subscription fees pay for this entrenched class of *apparatchiks*, than in exposing real violations of human rights.

The decline in standards has become especially apparent over the last five years. The collapse of the Soviet empire has deprived Amnesty of most of its *raison d'être*. In its place is an active campaign against free, democratic nations.

At the heart of the problem is Amnesty's faulty methodology. Amnesty does not rank countries according to their human rights record. It contends that even one abuse is worthy of their censure. But this is grossly misleading. A nation that uses systematic imprisonment, torture and murder of dissidents is far more reprehensible than one that simply has uncomfortable prison conditions.

For example, in Amnesty's 1999 *Annual Report on the Internet*, 165 lines of text were devoted to criticism of Australia's human rights. In contrast, the Communist dictatorship of North Korea had only 83 lines of critical text. Yet there is simply no comparison between the human rights records of Australia and North Korea.

Amnesty counters this by saying that it 'relies on access to verifiable information about human rights violations'. If there is more criticism directed against free, democratic nations, then it is because there is more independent information available. Amnesty refuses to condemn North Korea,

because most of the human rights violations that we know about have been documented by South Korean intelligence debriefs of defectors. Amnesty contends that this is not an impartial source and, hence, uses none of the information obtained.

Herein lies the second and most serious methodological error. Under Amnesty's guidelines, a nation that is grossly brutal and repressive, which never released dissidents, which never acknowledged their existence and which prohibited any independent domestic assessment of its human rights, would receive almost no criticism from Amnesty. A nation that is free and open, but had minor infractions, would receive much more criticism. Such is the ludicrous position that has seen South Korea receive eight times the amount of negative publicity from Amnesty in the last 5 years, than has North Korea.

This leads to the third error in Amnesty's methodology—trial by press release. The accompanying box demonstrates the consequences of these problems. The material is a summary of all critical press releases put out by Amnesty over the period 1995–1998 inclusive. Given the flaws in Amnesty's procedures, it is not surprising to find that in direct regional comparisons, the free, democratic nations fare much worse than the dictatorships.

Nation	Criticisms
Free, democratic USA	49
Closed, despotic Cuba	12
Free, democratic Israel	43
Hamas terrorists	5
Free, democratic South Korea	49
Closed, despotic North Korea	3
Free, democratic Malaysia	15
Closed, despotic Vietnam	3
Free, democratic Turkey	47
Closed, despotic Iraq	2
Free, democratic Egypt	12
Closed, despotic Libya	3
Free, democratic Pakistan	12
Closed, despotic Syria	6
Free, democratic Australia	20
Most countries in Africa	<3

Source: [www.amnesty.org.au/news/index.html](http://www.amnesty.org.au/news/index.html)

Amnesty counters that the actual numbers do not matter, and that the abuse of human rights is not a matter of quantity. But the trouble with that is that magnitude does matter. If a person hears that Amnesty has put out 20 criticisms of Australia and only three criticisms of North Korea, then what are we to make of this fact?

Of course, such a policy helps to play into the hands of the entrenched Amnesty bureaucracy. Most people simply do not care about human rights abuses in distant countries. Members of the media with a Left and/or sensationalist tilt are, however, likely to enthusiastically report any 'independent' criticism of its own (or friendly) government's human rights record.

The Aboriginal deaths-in-custody issue is a good example of Amnesty's trend towards fatuous irrelevance. Let us leave aside the fact that Amnesty has no charter to investigate what are essentially suicides by people who have been charged with (non-political) criminal acts. Amnesty knows that this is a 'trendy' domestic political issue. Therefore, an Amnesty report on this subject is certain to receive widespread media coverage—and much more publicity for Amnesty than if it were to put out a hundred press releases on the abuses taking place in North Korea or Cuba or Vietnam.

Moreover, when impressionable young Westerners hear about human rights 'violations' in their own country, then the incentive to 'do something'—for example, pay a membership subscription to Amnesty—is much greater.

Thus Amnesty's secretariat skews its reportage to serving the end of building up its own membership base. This is, of course, something that it is incapable of doing in countries where real human rights violations occur. They then dress up the biased result in the *faux* morality of only commenting upon 'independent, verifiable information'.

In fact, what Amnesty does today is an utter travesty of its charter. It deliberately sets out to demonize the very societies that have been the strongest proponents of human rights, while downplaying the real culprits.

Dr Peter Phelps is a Canberra-based writer.

I P A

# Beware the Sirens' Call of 'Trade Warriors'

CHRISTOPHER LINGLE

A key post-war bureaucrat in Hong Kong discouraged the collection of statistics on the grounds that otherwise governments would be encouraged to intervene. Balance of payments figures provide much fodder for false 'crises'.

**T**HE good news is that Australia's current account deficit has reached a new record! Doesn't sound so good ...? Well, consider that Japan's current account surplus has also reached record levels while its domestic economy experienced the fifth consecutive quarter of recession. It should be clear which situation is more desirable. The point is that current account deficits are neither 'bad' nor are surpluses 'good', per se.

The bad news is that Australia's widening current account deficits may reinvigorate quiescent protectionism. Before sabre-rattling by a new breed of 'trade warriors' drives a wedge between some of Australia's important trading partners, it would be best to examine the nature of these trade figures.

A variety of factors conspire to expand these deficits. First, recent sharp depreciation of the currencies of many South-East Asian countries led to a rise in consumption of Australian imports from those countries. At the same time, weaker currencies in South-East Asia led to higher costs for Australian-produced goods and a decline in sales to countries in that region. Second, Japan's domestic economy remains mired in recession, so its imports and tourist receipts are lower. Third, China continues aggressive promotion of a wide assortment of export goods for which it has a distinct comparative advantage. Fourth, Australia's economy has experienced the highest growth rate in its OECD cohort, so that rising incomes cause increased purchases of all goods, including imports, especially from countries with weak currencies. Finally, net

foreign capital inflows push current accounts toward deficit.

Despite the inescapable logic of these various forces, the doomsday scenarios of looming trade deficits with Australia's trading partners in East Asia have little basis in econom-

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***For trade deficits  
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ics. For trade deficits to be 'bad' or trade surpluses to be 'good', trade would have to be a zero-sum game, where one trading partner's gain causes another's loss. On the contrary, trade is generally regarded as a positive-sum game where all parties are, on balance, winners.

Nonetheless, expansions in international trade do pose potential political problems due to dislocations suffered by some workers or producers. While the affected parties are usually relatively small groups, they ex-

perience relatively large individual losses and have a strong incentive to form and fund interest groups. Thus, they may gain a disproportionate share of influence over politicians searching for electoral support or campaign funding. Meanwhile, benefits from trade accrue to the overall community, but 'winners,' so that the good of the many is sacrificed for the good of a few.

Trade is often blamed for increasing income gaps between skilled and unskilled workers in mature, industrial economies. A better explanation, however, is that rapid changes in technology enhance rewards for skilled workers while lagging productivity among the unskilled causes them to lose ground. So it is spurious to think that eliminating or limiting trade will improve the level of wages or equalize the distribution of incomes.

Economic nationalism imposes costs that are too great to ignore. One non-monetary cost of protectionism is that it encourages divisiveness. Projecting trade as a zero-sum game reinforces a 'them-versus-us' mentality. Not only is the economic logic of protectionism wrong, the tone of ominous warnings to Asian trading partners provides fodder for populists and racists. With mainstream political actors providing credibility for updated notions of a 'yellow peril' from Asian imports, it is easy for racists to exploit such images for recruitment purposes or as an excuse to torment targeted ethnic groups.

It may come as a shock to some that Pauline Hanson and her right-wing allies have strange bedfellows on this issue, including protectionist-minded trade unionists and leftist,

populist politicians. Reinforced ethnic divisions and international dispute are high prices to pay for enhancing the careers of certain politicians or protecting the jobs of a few workers.

Aside from the social costs of protectionism, sustaining high wages in one sector by keeping out cheaper foreign products results in higher prices for domestic consumers. Perversely, the poor are 'protected' from low prices in order to preserve relatively high-wage jobs. Indeed, all consumers of goods made in protected sectors have less discretionary income to spend on other domestically-produced products or services. Consequently, job growth in other sectors of the domestic economy will suffer. In a nutshell, protecting visible jobs destroys 'invisible' jobs.

The highest cost of protectionism, however, is, perhaps, paid by future generations whose job opportunities are stolen by both higher production costs and slowing productivity gains that impede economic and employment growth. Economic nationalism is backward-looking and sacrifices the young to protect the old by lowering economic growth so that fewer jobs are available to new labour market entrants.

Some inescapable realities confront all countries as the global economy unfolds. Waves of competition will wash over the world, and those countries whose economies have the most flexible institutions and most nimble responses will be best able to weather these incessant commercial storms. Industrial logic from the last century provided an illusion that high tariff walls or restrictive labour policies can provide a safe haven from global tempests.

Higher protective barriers make all countries poorer. Attempting to protect the jobs of the few will impose costs on the many, i.e., most consumers and taxpayers. Worst of all, the disenfranchised young will see their future stolen away by attempts to preserve the past or to promote the present.

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IPA

# The Anti-Business Mentality

PATRICK MORGAN

Academics perennially want governments to spend more money, particularly on universities. So why are they so hostile to the very people who organize wealth creation?

**L**ATE last year I received an unsolicited 'thought' via e-mail from our university chaplain: 'Only when the last tree has died and the last river has been poisoned and the last fish has been caught will we realize we cannot eat money' (Cree Indian Saying). Purporting to be a prick to our consciences, this saying was really intended to confirm the ideological prejudices of the anti-business atmosphere into which it was released. At the same time I read a review (really a promotion) of a play called 'Infectious' in *The Age* of 22 September 1998 whose main theme was that 'money, economic rationalism and rampant consumerism' are 'a virtual virus ... the greatest threat to the human species we will ever face'. Money, you see, is infectious. The lead letter in *The Age* of 2 October 1998 was headed 'Why schools and business don't mix', the reasons given being that business pollutes the environment, produces damaging services, wastefully uses scarce resources and employs dangerous work practices.

The mindset common to these examples is that money and business somehow diminish our humanity. Why have such dubious views risen to prominence so easily? Some decades ago Lord Snow said the big divide in our culture was between the humani-

ties and the sciences. This has not turned out to be true. A bigger split is between those who are in business, and those who have never experienced it—which includes many in university humanities faculties, religious bodies and public-opinion-forming groups. Many in these groups tend to be reflexively anti-business. Business people these days have usually gone through tertiary education, so they understand its culture. But the same doesn't apply in reverse. There are now whole groups of families (teachers, public servants, welfare workers and so on) who have been in the public realm for generations; they have never been in business and do not seem to understand how it works. Robert Murray has recently pointed out in *Quadrant* how deficient Australian historical interpretation has been (with exceptions like Geoffrey Blainey) in taking into account economic factors.

When Joan Kirner left the Melbourne Cricket Ground Trustees, she complained that the trustees had gone commercial and so could not serve the public good. Here we see the false opposition set up between business and social benefit. Mrs Kirner's constituents, many of whom inhabit public-sector jobs, believe that governments must collect and distribute vast sums to even up social injustice; ordinary

**The mindset common to these examples is that money and business must somehow diminish our humanity**

commercial operations can't, they believe, do this, and even hinder it. From her own Party, Peter Walsh, Mark Latham and others have pointed out that smaller government and free-trade, dry economic policies are not detrimental to the common good, but, on the contrary, improve it through economic success. We often hear anti-business ideologues say business operates only for profit, as though profit were immoral.

How interesting it is that those who hold positions in protected industries, like the public sector and universities, often support protectionist and other restrictive policies. This mirrors their own privileged situation of being shielded from market pressures. The barely-concealed secret of recent Australian political debate is how many of Pauline Hanson's seemingly most vociferous opponents hold hands with her under the table on economic matters.<sup>1</sup>

Some people argue that high participation in tertiary education helps a modern economy to develop and operate more efficiently. A reading of Max Teichman's article in *The Adelaide Review* (February 1999) on the parlous state of school education raises doubts. If a large part of the education sector produces a generation of graduates who don't go into business, who develop anti-entrepreneurial and anti-progress attitudes, and who promote extreme environmentalist positions, then the education sector can, over time, have a detrimental effect on the economy. It would be nice to see some acknowledgment that economic success produces the surplus money that finances our many public bodies like universities.

Behind these current anti-business attitudes lie deeply held attitudes of long standing. Weber and Tawney argued that certain Protestant strains of Christianity lay behind modern economic progress, but there is also in the Christian tradition a strain which warns against the obsessive pursuit of material gain—instanced by St Paul's statement 'for the love of money is the root of all evil'. For many, seeing business as somehow dirty and demeaning is an integral part of their 'religious' cast of mind. Earnest philosophers now setting themselves up to lecture the business community on ethics may have inherited some of this thinking. The Catholic tradition is also complex. Its encyclicals on economic matters over the last century have been

intelligent critiques, but they are often twisted into the claim that capitalism and communism are equally deficient economic systems. As a result, Catholic Social Justice Commissions believe they have a brief to attack our economic system. They are interested not in wealth generation, but only in its distribution. The parable of the talents is lost on them.

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The romantic reaction to industrialization in the nineteenth century is still influential. Our whole literary culture is imbued with it, and it underpins the modern day environmental movement. Dickens' *Hard Times* is the ur-text, a brilliantly satiric but one-sided demolition of utilitarianism, number crunching, rote teaching, personality suppression and dirty coal towns, all of which dehumanize us. 'The System' moulds us as programmed robots and the rebellious little man (Stephen Blackpool in the novel) has no hope. Eighteenth-century society, based on birth, status and inherited money, couldn't adjust to the new meritocratic society based on class and commerce, and something of its disdainful attitude to business has come down to us.

These quasi-religious and romantic views combine to form the popularist anti-globalization and anti-economic rationalist views promoted by John Ralston Saul on the ABC. 'Economic rationalism' has become a talisman employed in the same false way as the word 'capitalism' used to be. 'Capitalism' was a word used only by those hostile to our successful economic system, falsely implying that we had a monolithic system like communism or eighteenth-century 'primitive' capitalism (if such a beast ever existed). In reality, twentieth-century

Western economies have been mixed systems, incorporating welfare, socialist, capitalist and other streams, for which phrases like 'post industrial society' are much more accurate than 'capitalist'. The new language game uses the slogan 'economic rationalism' in the same misleading way. It is deployed only by opponents of free trade, dry economics and small government, who do not wish to spell out the doctrines they are opposing—so they lump it together in one demonizing slogan which prevents debate on essential details.

One of the great myths which has been assiduously promoted by the anti-business lobby is that the 1980s was the 'Decade of Greed', symbolized by Bond, Skase and Gordon Gecko. This has been repeated so often that it has now solidified into a truism, repeated uncritically by the media. In fact, the 1980s was the decade when the dry economics of Hayek, Friedman and others was established on the world political stage by Thatcher, Reagan and, in Australia, by Paul Keating. Clinton and Blair (but not Beazley) have since followed suit. The crucial thing not stated about Bond and his like is that their activities were an atypical attempt to keep the old rackets going in a corporate-state type of activity in collusion with State Labor governments. Their deals lacked arm's-length safeguards between politicians, businesses, bankers and public servants, just as some Asian economies did, and collapsed for the same reasons. So they were an example not of some new malfeasance, but of a last throw of the old dice. Bond and his like were exemplars of the outmoded policies believed in by the big government lobby.

The Cree Indian 'saying', sounds suspiciously to me like the invention of a Western mind as were those of Chief Seattle and the Hindmarsh Island women's business. I doubt any Cree Indian would be so silly.

#### NOTE

<sup>1</sup> See Lyndon Rowe, *Odd Bedfellows: The Economic Nationalists and Why They Are Wrong*, IPA Backgrounder, 10/2, July 1998.

*Patrick Morgan is a Victorian writer who contributes regularly to journals and magazines.*

**IPA**

**REVIEW**

# The Flap over Butterflies

AYNSLEY KELLOW

The flap of a butterfly's wings may or may not lead to a tornado. But misuse of science for political effect can certainly lead to bad policy.

**O**N 24 June 1999, Greenpeace activists dressed as butterflies picketed a meeting of European Union environment ministers in Luxembourg with a banner reading 'Give butterflies a chance—Stop Genetix Crops'. They urged—successfully as it turned out—the ministers to take a precautionary approach and prevent the commercial growing of genetically modified (GM) crops.

The scientific basis for this demand was a piece of research published in a letter to the journal *Nature* which indicated that monarch butterfly larvae fed with milkweed dusted with pollen from GM maize suffered adverse reactions, including death. The case has become a notorious example of the misuse of both science and the precautionary principle for political effect. It also demonstrates the need for careful risk-analysis in the development of regulatory approaches to technologies such as GM.

The precautionary principle is subject to growing abuse by environmental groups, to the point that it is becoming a seriously debased maxim. While it appears in numerous versions, it makes a recommendation in favour of caution when the risks of environmental harm are serious or irreversible. This is sensible enough, although the principle cannot alone be operationalized, because it cannot tell us how much caution we should exercise.

The precautionary principle asks us to act with care under conditions of uncertainty, and not to allow the absence of scientific certainty to serve as a reason for deferring action. It is this aspect which, in the butterfly case, demonstrates the extent to which the principle is being abused by Greenpeace, since it is invoking the precautionary principle on the basis of a single piece of scientific research.

The precautionary principle talks about lack of certainty, and a single scientific paper is a very long way from that. All manner of scientific papers are published which turn out to be wrong, and were we to act in a precautionary

manner on the basis of them all, our regulation would be confused, contradictory and very costly.

Greenpeace and other environmental groups were responsible for another example of this in the US. A single paper in *Science*, in June 1996, by scientists from Tulane University suggested that minute quantities of mixtures of endocrine-disrupting chemicals were up to 1,600 times more chemically active than the chemicals alone. Congress reacted with the passage of two new laws, the *Safe Water Drinking Act* and the *Food Quality Protection Act*, and a new mandate to the Environmental Protection Agency to develop new guidelines for endocrine disruptors, found not just in synthetic chemicals but also naturally in many foods.

Subsequent research was unable to reproduce the Tulane findings and in June 1997 the researchers acted responsibly by formally withdrawing their paper, admitting that they too had been unable to replicate their initial results.

Those conducting the GM butterfly research were equally responsible. The team leader, John Losey from Cornell University, explicitly warned that it would be inappropriate to draw any conclusions about the risk to monarch populations in the field based solely upon these initial laboratory results. This has not stopped many 'activists' from Greenpeace to the Australian Consumers' Association from doing precisely that.

Losey's caveat stemmed not just from the lack of replication of the findings in other studies, but from aspects of the experimental design which meant that the observed toxic effects had little bearing on environmental risk.

The only food provided to the larvae was the milkweed (their exclusive diet) dusted with the GM pollen; in the wild, they studiously avoid dusty leaves, moving to a clean one. Most pollen in the wild falls in maize fields, where few milkweed plants (or any weeds) are found. Maize plants pollinate for only a few days and monarch larvae only feed

for a few days; depending on weather conditions, there might be anything from a week's overlap between pollination and feeding to no overlap at all. Larger larvae are much less susceptible than small.

These are all factors which mean that, even if the toxicity results hold up, there might be a negligible risk to the butterflies. And this risk must be balanced against the benefits of the GM maize, which produces a natural pesticide.

These benefits are not only economic, but environmental. Non-GM maize crops are typically sprayed with insecticides eight to ten times, and this is likely to have a more significant impact upon monarch larvae and other insect species. Besides the pollen, the pesticide in GM maize is at least targeted at pests which attack the crop. This is, of course, only one of the possible risks associated with GM maize, but it is highly unlikely that it would be banned on the basis of this risk—unless the considerable power of the Greenpeace campaign prevails over sound risk-management.

The Greenpeace campaign succeeded with the EU environment ministers, and blockades of supermarkets and the offices of companies such as Unilever, Danone and Nestlé have business and governments alike running scared.

GM technology, like any technology, promises benefits and risks, and must be carefully regulated. But the appropriate balance is not likely to be struck when the precautionary principle is abused and risk management is replaced by scaremongering. The case for sound environmental policy is not so weak that it needs these tactics, and in the long run is—if anything—likely to be diminished by their use.

*Aynsley Kellow is Professor of Government at the University of Tasmania. His next book, International Toxic Risk Management, will be published by Cambridge University Press in October.*

**I P A**

IT'S ALL ABOUT INFORMATION

For me, the most exciting thing about the Internet is that it frees me from geographical constraints in my associations. It does this in two ways: it makes available information that was either never before available, or only available to those who were prepared to devote massive resources to the search, and it provides a truly low-cost means of international communication.

The information that was previously unavailable to me was that there are other people in the world who share some aspects of what some would consider my rather strange outlook on the world. That this information can be used to make contact with these people at incredibly low cost lifts it from the evolutionary improvements in the communication-to-cost ratio achieved in recent decades, to a revolutionary advance.

Consider some possibilities. The Internet could permit power boundaries to realign themselves along ideological and intellectual lines, rather than physical ones.

Such changes can be expected to be opposed by governments everywhere. The stuff of power would be severely diminished if exercised by individuals. That is perhaps why the chattering classes so admonish the Australian electorate for failing to make the changes they seek in our Constitution—one of the few in the world, it is worth noting, in which fundamental changes are in the hands of the populace. It is why such things as Citizen Initiated Referenda on legislative issues are either considered dangerous, and routinely besmirched, because odd bodies like the League of Rights also happen to support them (do we support murder because the League of Rights is opposed to it?). And again in Australia, the view that citizens cannot be trusted is one of the reasons for compulsory voting.

So we can expect continued pressure from governments on the right to free association, at least through electronic channels. After all, from immigration policy to tariff protection, xeno-

phobia is thought to be a political winner. Why not in the new marketplace of ideas as well?

The assaults on free exchange of information are initially concerned with such nasties as pornography and



hate speech. Internet censorship endeavours are, though, the thin end of a wedge. That thin end has already been inserted into every aspect of our society, and in most areas already been driven in rather deeply. The Internet, at least at the time that I write, has only just begun to feel the sharp point of the wedge, at least in Australia and the US. Other Western nations and many Eastern ones have already acted. Germany, with its determination to resist the ideologies predominant during the 1930s and '40s has attempted to ban historical revisionist sites, while China and Singapore have placed stern controls on what they consider to be inappropriate material.

In the meantime, there are organizations attempting to resist government intrusions into the Internet's potential as an area of intellectual discourse.

ELECTRONIC FRONTIERS AUSTRALIA

A couple of years ago, Web pages with black backgrounds were common. This was not due to lack of technological expertise, but was a protest against the US Government's Communications Decency Act, which was ultimately ruled unconstitutional by the US Supreme Court.

As I write, the home page for Electronic Frontiers Australia also features a black background in protest against

the passage of the Australian Government's legislation imposing censorship on the Internet. Check out EFA's site at:

http://www.efa.org.au

EFA has been a leading participant in the fight against such legislation and provides a great deal of background information at its site. It also features a link to a devastating critique of the iFilter Internet filtering software to be broadly adopted in Australian schools. According to The Censorware Project, this software, even with its most restrictive settings in place, still allows access to hundreds of pornography sites, many of which have fairly obvious titles, while it restricts access to a broad range of sites containing legitimate educational material, including the sites of several anti-censorship campaigners, which are not in themselves objectionable. Look at:

http://censorware.org/reports/bess

ELECTRONIC FRONTIERS FOUNDATION

The defeat of the US Communications Decency Act was due in large part to the sponsorship of legal challenges to it by organizations such as the Electronic Frontiers Foundation. Aside from vig-



orously defending free electronic speech, or perhaps as part of the same campaign, EFF has been weighing in on the side of one Professor Bernstein in his battle against the US Government. In 1996, Bernstein sought to publish some of his researches on the science of cryptography on the Internet. His at-

tempt to do so was prohibited by the US Government under its export restrictions on cryptography.

It is these export restrictions which make Australian credit card transactions over the Internet many orders of magnitude less secure than those conducted within the US. It is these export restrictions which result in Australians who wish to use the encryption program PGP having to obtain it from Norway rather than the US, from whence it originated. (Previous US court decisions have held that the export restrictions do not apply to *printed* copies of the cryptographical source code, so the free version of PGP's program is published in books with each new version and legally exported, and a team in Norway scans the code and recompiles the program into the International version.)

With EFF's backing, Bernstein has won both his original case and the US Government's appeal. A further appeal by the US Government is under way. EFF is at:

<http://www.eff.org>



### RAFE CHAMPION

Those who read widely amongst Australian free-enterprise-oriented publications would be familiar with this name. Mr Champion has a number of articles at his site exploring some of the thinking of Popper and his successors on an issue that's vital to an understanding of political ideologies: critical preference.

<http://victorian.fortunecity.com/beardsley/700>

I've admired Champion's writings from afar for over a decade. Without the Internet, I doubt I would ever have entered into conversation with him.

### MORE GUNS ... FEWER MASSACRES

The Port Arthur massacre prompted Australia's Prime Minister to bring about a banning of a category of firearms. A couple of University of Chicago academics, John Lott and William Landes, have applied economic analysis and statistical techniques to the subject of public massacres, and whether they are related to firearms control laws. Their conclusion is that, yes, there is a relationship: an inverse one. Over the past 20 years, every US state that has made it easier for its citizens to obtain permits to carry concealed weapons has seen a rapid and very steep decline in the number of public massacres occurring within its borders.

Why? Because mad as such multiple murderers are, they respond like everyone else to costs and benefits. Most often, their costs are their very lives, something they are quite prepared to spend. But in their currency, the 'benefits' of their actions are the number of other lives they can take with them. That a proportion of the target population might be carrying guns acts as a major deterrent, because it reduces their expected 'benefits'. Read this statistically rigorous report at:

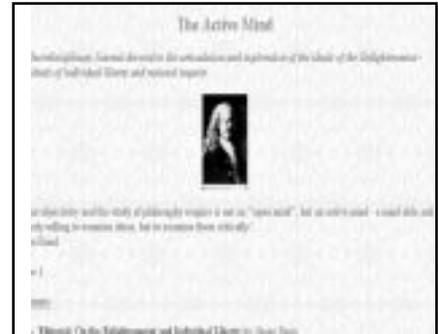
<http://www.law.uchicago.edu/Publications/Working/index.html>

I would have been utterly unaware of this research, were it not for the Internet. And don't overlook the many other papers at this site.

### THE ACTIVE MIND

This is described as 'An Interdisciplinary Journal devoted to the articulation and exploration of the ideals of the Enlightenment—the ideals of individual liberty and rational inquiry' and is published by another Australian writer, Jason Soon. The first issue includes discussion on Popper and Bartley's ideas by two writers (including Rafe Champion), a fascinating ap-

plication of the problem of deterrence to Victorian freeway construction



policy, and a discussion of competitive federalism by Jason himself. Read it at:

<http://www.geocities.com/Athens/Ithaca/2564/i1ind.htm>

An e-zine, of course, is a senseless concept without the Internet. And Mr Soon was able to draw my attention to it ... via the Internet.

### OTHER RESOURCES

Everything you always wanted to know about Milton Friedman? Try:

<http://www.ideachannel.com/friedman.htm>

From James Anderson to Allyn Young, from 1500 to this century, you can find works of sociology and economics at:

<http://socserv2.socsci.mcmaster.ca/~econ/ugcm/3ll3/>

which is mirrored at:

<http://melbecon.unimelb.edu.au/het/>

All these resources would either be very expensive or totally unavailable were it not for the exchange of information made possible by the Internet.

### FEEDBACK

I welcome advice from readers on any other sites of interest to *IPA Review* readers. E-mail me at [scdawson@iname.com](mailto:scdawson@iname.com).

# Hidden Landmines in 'Minimal' Changes

KERRY CORKE

A camel is a horse designed by a committee—just like the proposed republic.

**A**NY amendment to the Australian Constitution involves the insertion of specific words into a written law. The legislative design of the third paragraph of the proposed new section 59 of the Australian Constitution, proposed by the *Constitution Alteration (Establishment of Republic) Bill* is a disaster waiting to happen.

This third paragraph has two arms. The first is:

**A. 'The President shall act on the advice of the Federal Executive Council, the Prime Minister or another Minister of State;...'**

The Explanatory Statement accompanying the proposed amendments says:

Proposed s.59 provides expressly for the President to act on the advice of the Government of the day in accordance with the principle of responsible government which governs the exercise of nearly all of the Governor-General's powers.

The proposed section does no such thing.

## THE CONCEPT OF RESPONSIBLE GOVERNMENT

'Responsible government' was a recognized concept at the time of Federation. It really means *Cabinet* government.

By the time of Federation, the concept of 'responsible government' was well and truly established. In the British Dominions (of which Australia was one), the discretionary power of the Crown, other than the 'reserve powers' (discussed later on) were not exercised by the representative of the Crown himself, but on advice from popularly-elected legislators.

So it is in the Australian Constitution. Quick and Garran analysed the existing section 63 of the *Constitution* thus:

(the object of s.63) is to make clear that wherever in the Constitution there is a provision that the Governor-General in Council may do cer-

tain Acts, such provision refers to the Governor-General acting with the advice of the Executive Council. This, as we have already seen, means *the advice of the select committee of the Federal Executive Council known as the Ministry*.<sup>1</sup>

The operating presumption is that when the head of state hears advice from a representative of Cabinet, the advice given will be fully supported in both parliamentary and public forums.

Sir Paul Hasluck, a previous Governor-General, thought it was not appropriate for Ministers to have an argument in Executive Council about the merits of a particular proposal. They should go away and come back when the *Cabinet* can express a united view.<sup>2</sup>

He thought it appropriate for a Governor-General to hesitate to follow the advice of a Prime Minister where there was reason to believe that the Prime Minister was at odds with his own Cabinet or his own party.

In that case, the Governor-General in Council might seek confirmation that he is acting on clear advice and not taking sides in an unresolved argument. In the case of a coalition government, if there were any substantial doubt about the unity of the coalition partners, he might find it advisable to seek assurances from the leader of any coalition party as well as from the Prime Minister.<sup>3</sup>

The proposed amendments not only require the President to exercise powers on the advice of the Executive Council, but also on that of the Prime Minister or a Minister of State.

If you have, for example, a fractious government of the sort hinted at by Sir Paul: when does the President act with the advice of his Executive Council? Or the Prime Minister? Or a mere Minister of State?

Even in the exercise of an 'ordinary' power, such as the commencement of a piece of legislation, or the appointment of someone to a board or committee

(leaving aside issues such as ministerial reshuffles or dismissals), there is a chance that a fractious multi-party government may exist, possessing different views.

Giving three separate people (or a group of people) a statutory right to advise a President in the fashion proposed can raise the spectre of an unseemly race to Government House so that the Prime Minister may beat a Minister with relevant administrative responsibility for an Act, or an 'Executive Council', to tender advice, on which the President 'must' act.

Do these provisions create a contextual implication that the Prime Minister, as the principal adviser to the President, may give advice *notwithstanding* a decision of Cabinet?

Alternatively, on the occasion of an A-grade political spat, does it allow a Minister acting as an emissary of Cabinet to advise the President of the view of the majority of the Cabinet, and that the President *must* act on that advice? That would accord with the standard concept of 'responsible government'.

Yet can the Prime Minister then go back to Government House, and advise a reversal of the decision, again something the President might *have* to do. After all he is the boss. And the President *must* act on advice tended by (*inter alia*) the Prime Minister.

A disaster in waiting. Courtesy of the design of the Constitution as it is proposed to be amended.

The second arm of the third paragraph of the proposed new section 59 reads:

**B. '... but the President may exercise a power that was a reserve power of the Governor-General in accordance with the constitutional conventions relating to that power'.**

The third paragraph of the proposed section 59 says that the 'reserve' powers may be exercised 'in accordance with the constitutional conventions that related to the exercise of the power by the Governor-General.'

There is abundant constitutional literature which discusses the concept of 'reserve powers'. The trick is identifying what they actually are.

The Explanatory Statement says that there are **probably** four:

- appointing a Prime Minister;
- dismissing a Prime Minister;
- refusing to dissolve a Parliament; and
- forcing a dissolution of Parliament.<sup>4</sup>

It is quite something to put into a Constitution a concept with such an uncertain ambit.

L.F. Crisp identifies a 'constitutional convention' as being an extra-legal rule of structure or procedure or principle, established by precedent, consolidated by usage and generally observed by all concerned.<sup>5</sup>

The Explanatory Statement suggests that:

There can be circumstances, however, where there is no generally agreed convention to control the exercise of the Governor-General's reserve powers. Such a situation arose in 1975 when the Governor-General, Sir John Kerr, dismissed the Prime Minister, Mr Whitlam, after the Senate failed to pass the Supply Bill for Mr Whitlam's (sic) government.<sup>6</sup>

So, there may have been a convention to deal with the 1975 scenario. Or maybe not.

Professor Winterton observes that there is uncertainty about the actual contents of the conventions relating to responsible government.<sup>7</sup> Equally, L.J.M. Cooray accepts that in any analysis of the operation of conventions in Australian law there is a degree of uncertainty.<sup>8</sup>

It needs to be said that 'conventions' are nothing more than the application of common sense in the operation of government. They are not the sort of thing that can really be set down in writing. Because they are applications of common sense, they can change with circumstances.

For instance, in his work *Cabinet Government* Sir Ivor Jennings recorded that the convention that Cabinet takes collective responsibility for decisions made by it in the Parliament was not followed in the United Kingdom in 1932 because of 'exceptional political conditions'. In that case, the Government was a coalition formed of three parties with distinct organizations, set up for specific purposes. As the relevant issue (tariff reform) was not one of those purposes, members of the Cabinet could speak and vote against it.

So, what counts as a 'convention' is a settled thing. Unless it makes sense not to follow it.

The Supreme Court of New South Wales observed in *Greiner v. Independent Commission Against Corruption* that the rules relating to the dismissal of the government are vague and uncertain. The only certainty being that it was a power exercisable only in 'most extreme circumstances'.<sup>9</sup>

So, even assuming that there are 'reserve powers' (an open question), and that there are settled conventions to guide their exercise (an equally open

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## **Attempts to express the concept of responsible government in the Constitution in a way better than those of the founding fathers have been unsuccessful**

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question), the better view is that they may only be exercised in 'extreme circumstances'.

What is 'extreme' to you, may not be to me. I can prove this by asking one question: were the events leading up to 11 November 1975 'extreme' enough to justify the dismissal of the Whitlam Government? Ask that one at a party.

### **YET ANOTHER REASON FOR THINKING THAT THE AMENDMENTS ARE A CONSTITUTIONAL CAMEL**

Reserve powers and constitutional conventions aren't conveniently listed anywhere. They are merely derived from usage and practice. As a matter of statutory design, it is very bad practice for a term of art, such as 'convention' or 'reserve power', to be contained in legislation, where the ambit of the term cannot be clearly determined.

The very best terms of art should be well known like the Ten Commandments: 'Thou shall not kill; thou shall not steal'. Or a term like a baker's dozen. Most people know that that *means* 13 of something.

When terms of art are used in a statute, their ambit should be well known, so that those well-known concepts can be applied to the facts of the case at hand. Under no circumstances should a term

of art be inserted into anything, particularly a constitution, where the ambit of a term can only be defined as *probably* constituting something.

One is left with the thought that the 'Bipartisan Appointment of the President Model' has in mind the political landscape of today, without anticipating that as the years turn into decades, things may change. The political certainty of today may not exist tomorrow.

Attempts to express the concept of responsible government in the Constitution in a way better than those of the founding fathers have been unsuccessful, largely because of the use of technical terms of art which, when it comes to the crunch, are of indefinite meaning. The proposed section 59 is another reason why the proposed republican amendments should be regarded as a constitutional camel.

### **NOTES**

- 1 Quick, J. and Garran, R., *The Annotated Constitution of the Commonwealth*, 1976 reprint, Legal Books, Sydney, page 707. See also L.F. Crisp, *Australian National Government*, Longman Australia, Melbourne, 1977, pages 350-7. Also generally Sir Ivor Jennings, *Cabinet Government*, Cambridge University Press, Cambridge, 1969, pages 13ff. W. Harrison Moore, *The Constitution of the Commonwealth of Australia* (1997 reprint), Legal Books, Sydney, page 168; L.J.M. Cooray, *Conventions, the Australian Constitution and the Future*, Legal Books, Sydney 1979, pages 66-8.
- 2 Paul Hasluck, *The Office of Governor-General*, Queale Memorial Lecture, Adelaide, 1972, page 18.
- 3 *Ibid*, page 19.
- 4 Paragraph 5.13 of the Explanatory Memorandum accompanying the *Constitution Amendment (Establishment of Republic) Bill 1999*.
- 5 Crisp, *op.cit.*, page 352.
- 6 Paragraph 5.15 of the Explanatory Memorandum accompanying the *Constitution Amendment (Establishment of Republic) Bill 1999*.
- 7 Winterton, G., *Parliament, the Executive and the Governor-General, a Constitutional Analysis*, University of Melbourne Press, Melbourne, 1983, page 2.
- 8 Cooray, *op. cit.*, page 90. The author does say, however, that the degree of uncertainty is not as great as it is often portrayed to be.
- 9 Volume 28 of the *New South Wales Law Reports* 125 at page 144.

*Kerry Corke is the principal of K.M. Corke and Associates, a company involved in the analysis and design of legislation.*

**I P A**

Compiled by IPA staff, columnists and consultants ...

## BY THEIR FRUITS SHALL YE KNOW THEM

Sure-fire proof that the Democrats were involved in the GST outcome—condoms are GST free.

## RUMPOLE ON THE HUNT

Sir John Mortimer, author of the wonderful *Rumpole* stories, has often seemed the quintessence of Britishness himself. Round-faced, bespectacled, a bit rumped, he seemed to be somewhat like his creation—except that Sir John, a QC of much eminence, has had a far more successful career than the world's most cantankerous non-taker of 'silk'.

Sir John, 76, now blind in one eye and so frail that he walks with a stick, has been receiving hate mail because he and his wife are strong supporters of fox-hunting. Amply fulfilling the stereotype of being people so emotionally twisted that their sympathy for warm, furry carnivores coincides with an apparent hatred of their fellow humans, opponents of fox-hunting have posted razor-blades and a parcel of excrement to the Mortimers and made anonymous phone calls threatening to murder Sir John and his wife.

Sir John has had the last comment, of course. The first country in Europe to ban fox-hunting was, he points out, Nazi Germany.

## HITLER THE GREEN

Sir John's observation is not a mere coincidence. Germany's two distinctive contributions to twentieth-century political practice have been Nazism and environmentalism. As Jeremy Rabkin points out [see page 8 of this issue], this may be understandable, given the German cultural obsession with purity.

But the Nazis were, in fact, very 'green' themselves. Not only was Hitler a dog-loving vegetarian, he was the first leader of a major industrial country to stop development projects for environmental reasons, was a devout nature-lover, believed strongly that 'natural' equalled good, thought in terms of a mystic bond between man and nature ('blood and soil') and believed a given territory could only support a limited population ('*lebensraum*').

Given that he was an economic nationalist and a definite opponent of im-

migration, Hitler would be an excellent candidate for the Australian Democrats or the Greens—except, of course, for his racism and hatred of democracy.

Intolerance towards those who disagree with them, amounting at times to vitriolic abuse, and the propaganda tactics of the Big Lie—telling lies so huge that people believe them because they cannot accept that other people would be so deceitful—both staples of the Nazis, are also hardly absent from the dark green cause.

US Radio Announcer Rush Limbaugh popularized the term 'feminazis'. 'Eco-fascist' deserves more of a run, as the experience of Sir John and Lady Mortimer and many others attests.

## WORKING CLASS? WHO US?

Speaking of feminazis, various feminist harpies have stabbed their poisoned pens into Martin Ferguson for his defence of working-class culture when he launched Michael Thompson's new book, *Labour without Class*. Ferguson and Thompson's suggestion that policies should at least not disadvantage women who choose to stay at home or only work part-time to look after children has been far too much for some feminist commentators, who have immediately implied that Ferguson is in favour of sticking women back into the kitchen—a quite scurrilous misinterpretation of both Ferguson's comments and Thompson's book.

Ferguson provides the interesting spectacle of a senior Labor politician actually sticking up for working-class culture. Something that some 'progressives' seem to think modern Labor can do without.

## RULE BY?

The conventional list of terms of governance such as *democracy*, *plutocracy*, *theocracy* and the like are familiar to all. But what term defines our present system: a vast legalistic government, that is supported by hosts of administrators, regulators and similar who serve under the rule of courts and their representatives?

The older *bureaucracy*, seems inadequate. No more accurate and honest term has yet appeared in the English language.

Some suggestions include: *anacocracy*—government by incompetents; *diaphthocracy*—government by corruption. (Well, there has been evidence that money can change the Laws.)

Each has a certain euphony.

Or do we just have *euphocracy*—government by whatever sounds good at the time?

## A DEFINITE SELLING POINT

One Muscovite woman, when asked about whether she would vote for the Communists, put things in a nutshell. She couldn't see how anyone could support the Communists—before the democrats came to power, she did not even know what a tampon was.

## MORAL VANITY MANNE

Robert Manne has carved out a niche for himself as the point man for contemporary moral vanity. In the moral vanity game, one parades one's own moral splendour via the ostentatious display of 'noble' opinion. The trouble with this game is that those opinions become vital moral assets, to be defended at all costs. Disagreement must be taken as a sign of being corrupt or evil—or, otherwise, how can holding the opinion be a sign of moral nobility in the first place?

Manne, writing in *The Age* and the *Sydney Morning Herald* (July 19) implied that privately-funded think-tanks, like the IPA, were somehow inherently dubious simply because they were privately funded. In other words, intellectual opinion funded by consent is inferior to intellectual opinion funded by the coercive transfers of the tax system (such as that enjoyed by academics like Robert Manne).

Professor Manne seems to have changed his tune on these matters. When editor of the (privately-funded) *Quadrant* magazine, he sent out begging letters asking for donations to counteract the influence of politically-correct universities. He was formerly on the Research Committee of the Australian Institute for Public Policy, a Perth-based think-tank which later merged with the IPA. He is currently on the Board of the Brisbane Institute, another privately-funded think-tank.

So, private-funding is fine when Robert Manne is involved, but dubious

when he isn't. The perfect display of the moral vanity game.

## JUDICIAL ACTIVISM ... GOING ALL THE WAY

There is much humour on the World Wide Web. Browsing off to [http://www.theonion.com/onion3514/unfit\\_to\\_govern.html](http://www.theonion.com/onion3514/unfit_to_govern.html) one finds an amusing mock-up story about the US Supreme Court finding 8-to-1 that the American people were unfit to govern. All very entertaining, except, of course, it is the perfect *reductio ad absurdum* of judicial activism.

## WHAT'S IN A NAME?

For those who are wondering what the CIA does nowadays, it seems that they advise NATO on targeting. During the recent Kosovo conflict (what do you call something when sustained military action occurs, one side has no casualties and mostly civilians get killed on the other?) they apparently only nominated one target—too bad it turned out to be the Chinese embassy.

But don't expect the probable next President to abolish the Cold War relic—it would require closing down CIA Headquarters. And we can't quite see George W. Bush closing down the George Bush Centre for Central Intelligence.

## IN BLACK AND WHITE, YET RED ALL OVER

Just in case some readers think that the Cold War has finished and the work done, we must bring to their attention the appearance of the first edition of the bulletin of the Melbourne Uni Socialist Worker Club, *wellRED*. In at the deep end, the first editorial ambitiously claims that the war in the Balkans, the Jabiluka uranium mine and the rise of One Nation are all the result of capitalism. After then clarifying the true meaning of socialism—'For us, socialism means real democracy and freedom and can only be achieved by people fighting for it themselves, *not* through a ballot box or a party line'—the editorial notes that, 'the effects of the capitalist system are seen as poverty and unemployment soar, and living standards across the world decline.' They obviously haven't read the annual *Economic Freedom of the World Report* which has been showing,

year after year and with overwhelming empirical evidence, quite the opposite. Maybe the title of the new bulletin is spot on. It certainly couldn't be called *wellREAD*.

## POWER OVER BEAUTY

Affirmative action is alive and well for some women in Kelantan, the Malaysian State controlled by a fundamentalist Islamic party. A ban on attractive women being selected for positions in government departments has been decreed by the State's Chief Minister, Nik Aziz Nik Mat. He has ordered officers interviewing prospective government employees to hire 'less beautiful' women. Explaining himself, he stated, 'Normally, women who are blessed by Allah with good looks are married to rich husbands. Since they would not need to work, there would be wider employment opportunities for women who were less comely—who could then earn sufficient income to live comfortably, like beautiful women with rich husbands.' Now that's an affirmative action policy that our gender commissars haven't thought of.

## TO BOLDLY GO WHERE ALMOST EVERYONE ALREADY IS

The *IPA Review* cover story last issue—*Ambush in Cyberspace*—contained an error. Michael Warby's claim that Treasury prevented its staff from at-work access to the World Wide Web was an exaggeration—dedicated machines have existed in Treasury with Web-access. Staff were not, however, allowed access at their desks.

But that is all changing. Treasury staff have been given desktop access to the Web. The information superhighway is open to our Treasury boffins. Now, for the big question. Does Treasury use NetNanny or KidSafe to filter out dirty pictures from the tender eyes of Treasury staff?

## MORE ALIKE THAN WE THOUGHT

Greenpeace activists recently mowed down experimental genetically-modified crops in the United Kingdom. In Gladstone, Queensland, they recently invaded an experimental shale oil plant, turning off working machinery in a way which was extremely dangerous. De-

struction of property, putting yourself above the law, holding that the end justifies the means and putting people at risk—just like the French secret service and the bombing of the *Rainbow Warrior*.

## DOG SHOTS MAN

The old editor's saw says that 'dog bites man' is not news but 'man bites dog' is. On that basis, a Reuters news item from Germany has given us the ultimate 'news' story. According to police, a German dog has shot and killed its owner. The 51-year-old man, who had been out hunting with his shotgun, was found dead beside his car near the south-western town of Bad Urach. Police ruled out suicide and foul play and said the gun must have gone off when the dog jumped on top of it on the car seat.

A canine with a (loaded) carbine.

## BUGGING THE BOSSES

Amnesty International has been appealing for the release of Liu Baiqiang. Liu had been serving a sentence for theft at the time of the Tiananmen square massacre. He wrote down 'counter-revolutionary' messages ('down with Li Peng', 'down with Deng Xiaping') on tiny scraps of paper and tied them to the legs of locusts which he then released. He was sentenced to a further eight years' gaol for his entomological ingenuity in dissidence.

## PROVE YOUR SANITY ... COMMIT SUICIDE

If you are an Aboriginal teenager and someone suggests that you are a bit mad, or even irrational, how can you show that you are not? If Colin Tatz is correct, it seems that one way would be to attempt suicide.

Tatz, the doyen of Australian Genocide Studies, has suggested that Aboriginal youth suicide is, given the alleged hopelessness of their position, often rational. While many of Tatz's comments on Aboriginal youth suicide are quite sensible, with 'rational suicide', he seems to have found a whole new way of contributing to the victimhood obsession which so bedevils attempts to improve the lot of Australian aborigines.

After all, being told that killing yourself is quite rational hardly provides encouragement to confront problems.

# Letter from London

JOHN NURICK

## Mid-term Blues

**W**E'RE half way through Tony Blair's first term in government and the honeymoon period is definitely over. Labour came into office promising to fix—or at least seemingly promising to fix—all sorts of things; and people are beginning to notice that some of these have got worse, not better.

Consider the railways. Their problems have two main causes: first, skimmed investment and maintenance over decades of nationalized ownership; and second, privatization. Over-ambition and incompetence must be involved, too: people have been building trains for more than 150 years, so you'd think they would have got the hang of it—but new designs seldom go into service smoothly. One recent batch of trains were too wide for some of the stations they were meant to serve.

I owe you a little apology here. I wrote last year that rail privatization 'seems to be beginning to work, though many people will tell you different. We should see real improvements in two or three years.'

Unfortunately, things are worse than that. Privatization is working all too well! The many companies into which the old British Rail was divided are working hard and creatively to maximize profits and shareholder value. Unfortunately, what they have to do to maximize their profits is often not what is needed to provide a train service. For instance, Railtrack, the company that owns all the track and almost all the stations, has no financial incentive to upgrade track and systems so that the train-operating companies can respond to increasing demand by running more trains. Instead, at least one train-operating company is reducing the number of seats in some of its carriages, in order to cram in more standing passengers. The operating companies were given short—typically seven-year—franchises on the services they provide, so they have little incentive to make long-term investments.

Most of this is squarely the fault of the previous Conservative government, which was desperate to sell off the rail-

ways before it lost the election. In its haste, it didn't think through carefully enough the consequences of the structure it set up. (It also sold the system for billions of pounds less than it could have fetched.)

The Blair Government recognizes the perverse incentives and has begun to strengthen the regulatory system—but it has not bothered to find parliamentary time for the necessary legislation. This means there is no prospect of major improvement in public transport before the election.

Labour has not begun to deliver the goods in the National Health Service, either. Parts of this rank with the best in the world, but much of it is third- or fourth-rate. Labour did stunningly badly in the European Parliament elections in June. And the England cricket team is as much of an embarrassment as ever.

With all these mid-term blues, the Conservatives should be making the running. Not a bit of it. Mr Blair's poll ratings remain high, while Mr Hague's are almost invisible. At the Eddisbury by-election in July, the Conservatives retained the seat but Labour—against all precedent—actually managed to increase its share of the vote from the general election. No one knows whether this is despite or because of the number of Labour MPs who campaigned in the constituency; it is said that 75 of them were assigned to chauffeur voters to the polls on election day.

In the European election, Labour's national vote collapsed from 44 per cent at the general election to 28 per cent. Under the new regionally-based proportional representation system, this gave them 29 members of the European Parliament. The Conservative share increased from 32 per cent to 38 per cent (36 MEPs). Mr Hague said this was 'a major breakthrough'—but his party could not follow it up at Eddisbury.

The strongly anti-European UK Independence Party won its first seats ever (3 MEPs on 8 per cent of the vote). The solidly pro-European Liberal Democrats saw their vote slip from 17 per cent at the general election to 13 per cent (11 MEPs) and the new 'Pro-Euro Conservative Party' did humiliatingly badly. The



turnout was the lowest ever at a national election, ranging from 28 per cent in the South West down to 20 per cent in the North East.

The central issue was the European single currency—the hottest potato in British politics. Now that the euro exists, there are only three real answers to the question 'Should the UK join?' They are:

- 'No, never! We must keep the pound and the Queen's head on it. Oh, and the power to devalue the currency and manipulate interest rates is a vital part of national sovereignty.'
- 'Maybe.'

On the one hand, the euro zone is not an optimal currency zone. In places like the US and Australia, there are a strong federal government and strong interstate equalization mechanisms, and it is easy for people to move to where the jobs are. In Europe, there is almost no central government, the equalization budget is tiny, and language and other differences make it harder for people to move. This means that the effect of an asymmetric shock on the euro zone could be very severe.'

'On the other hand, the euro would help business by eliminating most exchange rate risk. It will increase competitiveness by making cross-border price differences painfully apparent. And by eliminating once and for all the government's power to devalue

the currency and manipulate interest rates it will force Britain to concentrate properly on achieving genuine increases in efficiency and productivity.'

- 'Yes, as soon as practical. Britain's future is in Europe, and the euro is part of Europe.'

The UK Independence Party's answer is 'No, never!' The Liberal Democrats say 'Yes, as soon as practical.'

The Labour government's official policy is 'Yes, but only if certain economic conditions are met and only after a referendum.' The official Conservative policy is 'Not in this Parliament or the next'. This is a compromise to stop the Party splitting. Pro-Europeans pretend that it's consistent with 'Yes' because for practical reasons it would hardly be possible to join the euro any sooner, while anti-Europeans don't mind because they can keep campaigning for 'Never!'

Mr Hague himself points to the European election result and the opinion polls as proof that what the British people want is to be 'in Europe but not ruled by Europe', and says that this is what his Party is offering. The Conservatives will therefore win the next general election. QED.

This isn't persuasive. Europe is likely to be a minor issue in a general election. Business remains, on balance, in favour of the single currency, a fact that the British electorate these days is unlikely to ignore altogether, and that the government certainly won't ignore. The Labour campaign in the European election was strangely lacklustre, almost as if Mr Blair didn't want to win. Labour voters stayed home in droves.

Why didn't Labour try harder? Here are some suggestions. One: Mr Blair was too busy in Belfast and the Balkans. Two: he was too canny to lead a pro-euro, pro-Europe, campaign while the euro was visibly sinking and the old, scandal-tainted European Commissioners were still occupying their posts. Better to write this election off and save the ammunition for a winnable battle. Three: Labour's MEPs were mostly 'old Labour'; the fewer who were re-elected, the better for Blairite New Labour.

My favourite is number two. What's yours?

*John Nurick is a management consultant based in the South of England. From 1985 to 1990 he was editorial director of the Australian Institute for Public Policy, and he later edited newsletters reporting on the UK Parliament and the European Union institutions.*

IPPA

# Plantations 2020's Myopic Vision

IAN MOTT

If you are not regenerating native forest, please do not discourage someone who is.

**A**SSISTED regeneration of local native species is world best-practice forestry. That was the conclusion of the Second International Pro-Silva Congress, held in The Netherlands in 1997. When possible, regenerating a forest is the best economic and ecological option to expand productive forests—but an unholy alliance of greens, bureaucrats and plantation interests is not keen for this message to spread here.

The central plank of current Australian forest policy is 'The Plantations 2020 Vision', which was set up by the Keating Government with the aim of trebling the area of timber plantations from 1 million hectares to 3 million by the year 2020. Each State has endorsed the Vision's agenda to reduce impediments, etc., with funding for administration and extension services at regional level. But the name was actually borrowed from Dr Mahatir's vision for a speculation-based fast-track for the Malaysian economy. And the evidence is mounting to indicate that the Australian forestry namesake is just as flawed.

Curiously, the vision is not for a two-million hectare expansion of production forests onto cleared land but, rather, for planted forests only. The vision assumes that the only way to expand a forest is by planting one. Yet this flies in the face of over 1000 years of international forestry practice, which has always been based on assisted natural regeneration.

Indeed, the term '*by hook or by crook*' has its origins in a serf's right, when collecting firewood, to remove any branches from his master's forest that could be reached by either of the two implements. It is a term that only has relevance to a regrowth forest, as old-growth forests do not need pruning or thinning.

There have been some significant reforms to forestry policy initiated by Federal Ministers Robert Hill, John Anderson and, more recently, Wilson

Tuckey, but there is considerable inertia to be overcome at State and local level. Only last year—at the behest of the Australian Forest Growers—was the management of private native forests accorded *back-door status* in the 'farm forestry programme'. Prior to this, there was no recognition, at the policy level, of existing, lawful, private native-forestry businesses.

Most bureaucrats accepted the greens' policy that all native forest logging should be phased out. And they did this without any regard for the legal status of those private forestry operations or their own statutory obligations to deliver fair and equitable policy.

So the 'Vision' was formed in disregard for the needs and capacities of the target market, namely, the farmers who exercise sole discretion over the use of land on which any forest expansion must take place. These farmers already own more than 12 million hectares of higher volume, forestry-relevant, native forest and about 100 million hectares of open woodland which is capable of a lesser contribution. Much of this resource has regenerated on previously cleared land. There is very little untouched forest left in private hands as its compulsory removal was often a condition of the original grant of title.

A major cost burden for farmers is the maintenance of the productive capacity of pastures in the face of persistent regeneration of native forest and woody weeds. This condition is more pronounced in tropical climates, with summer rains, than in temperate climates, with winter rains.

The tree-clearing figures for Queensland show nothing but pasture maintenance. Analysis from Landsat satellite data indicates that 285,000 hectares per year are cleared compared with claims from green groups of 1.8 million hectares per year. Between 43 per cent and 75 per cent of this is woody weeds and regrowth less than five metres tall—and it would ▶

be a statistical improbability for most of the remainder to be anything but older, taller, regrowth.

In NSW, the 150,000 hectares per year clearing estimate that was used to justify clearing controls has since been shown by Landsat analysis to be only 18,000 hectares per year.

Regrowth is also more prevalent in association with cattle-based pastoralism than with sheep-based pastoralism. So it is no surprise that in Victoria—with winter/spring rains and sheep-based pastoralism—the clearing rate is only 3,000 hectares per year, which represents little change from pre-clearing control times.

Furthermore, after 40,000 years of Aboriginal firestick farming, nothing speeds up the regeneration of the evolved forest species more than a fire at seeding time. A recent CSIRO Workshop on Regrowth Management, at Orbost, Victoria, reported that seedlings that germinate in ash beds grow up to five times faster than those that don't.

With good management, native forest growth rates approach those of plantations. Farmers soon learn that there are few more frustrating activities than fighting a paddock that wants to be a forest. And there are 12 million hectares of evidence that they will retain such forest if they can see a value in keeping it or if the return from pastoralism is less favourable.

It should be remembered that most of the *return* from plantations is merely the compound interest on establishment costs. So a forest that costs next to nothing to establish will be far more profitable than one that costs more. It is no coincidence that the nursery sector focuses on volume output and price rather than profitability.

That 12 million hectares can only mean that many farmers already understand the value of trees. The critical pre-conditions for any decision to invest in forestry are:

1. an understanding of the value of trees; and
2. ownership of land or the capacity to acquire land.

Any such individual will, almost certainly, already have native forests on their land, so the 2020 Vision not only ignores about 95 per cent of the target market, but actively antagonizes it.

It fails to recognize farmers' achievements to date, it implies that what they were doing was socially and environmentally unacceptable and it sends a clear message that plantations are to replace their market share and thus reduce the value of their existing forest to zero. It is

the land management equivalent of *terra nullius*.

So most of the current funding is directed at either landowners with prime cropping land (with no economic reason to have more than a token presence of trees) or the urban salaried class who own no land. The forestry bureaucrats spend the money on themselves and blame the resulting failure on, wait for it, '*the lack of a farm forestry culture*'.

#### JUST ONE INSTANCE ...

The failure of all levels of government to address the perceived threats to the harvest security of regenerated native forest is instanced by one seven-hectare site. The policy caused the owner to spend \$40,000 establishing a plantation of introduced (50 per cent exotic) genotypes, the option least favoured by the Pro-Silva Congress—a \$40,000 sacrifice to 'gonzo' forest policy. The site in question is ideal for native regeneration, although only the Europeans and Americans would officially think so. The owner could have assisted the local species to regenerate on the site for less than a sixth

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***Few people understand that, for 21,900 days of a 22,000-day management cycle, a working forest will produce nothing but ecological benefits***

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of the cost (from \$4,000 to \$7,000 in total). But the risk, entirely due to government's plantation fetish, was far too high.

The 70-year-old regrowth stand above that site has mature blackbutt, tallowood and white mahogany. Below the site are early-mature rose gum and brush box, with grey gum, iron bark and blue gum further away. The entire site is well within the normal range of natural seed dispersal, so to reclaim the varied, wet sclerophyll mosaic that most closely resembles the original (and nearby regrowth) forest cover would have needed only minimal effort. At most, all that was needed was a controlled burn at seeding time, weed control and thinning of the emerging seedlings.

After spending \$6,000/ha on plantation establishment, seedlings from nearby stands are already out-performing the planted trees. On the evidence, the natural regeneration of the entire site could have cost well under \$1,000/ha.

This waste of money is all due to public policy. Ironically, \$25,000 of it came from the public purse.

A government grant of \$10,000 was available for plantation establishment but not for native forest regeneration. A tax deduction for the remaining expenditure cost taxpayers a further \$15,000. Nevertheless, the owner still parted with \$15,000—more than double than what was needed for assisted regeneration.

#### THE BROADER CONSEQUENCES

Soon after the plantation just mentioned was established, a neighbouring property with similar potential for forest expansion came up for sale but the owner of the aforementioned site no longer had the cash for a deposit.

That property has since been subdivided into small holdings with eight new predatory cats, eight new access roads, eight new stereos and eight new light sources to ruin the night vision of shy, nocturnal forest-dwelling species (including the forest-owning neighbour). It could have been a self-funding rental property with a new addition to a working native forest, sustainably managed on a 60-year rotation.

Few people understand that, for 21,900 days of a 22,000-day management cycle, a working forest will produce nothing but ecological benefits to the owner and the community. But current policy only shows up for the remaining 100 days when the economic benefits are to be gained. Current policy only examines the last 0.5 per cent of the owner's actions and demands to see a balance of ecological and economic values.

Sadly, this demand is usually made, at the local level, by people who spend most of their time approving new housing developments, etc., that involve the permanent removal of forests or the effective preclusion of them.

To take such an intellectually nourishing activity as tending a forest and bury it in anxiety and fear is not just maladministration, it is an ecological crime.

*Ian Mott is National President of the Regrowth Foresters' Association and Queensland Councillor, Australian Forest Growers.*

**IPA**

**REVIEW**

# Keeping Sustainable Development in Balance

HUGH MORGAN

**T**HE concept of 'sustainable development' gained worldwide recognition following the 1987 publication of the Brundtland Report *Our Common Future*. The Australian Mining Industry Council, as it then was, was quick to realize the importance of Brundtland by inviting the lead author, Jim MacNeill, to come to Australia and brief the industry and other participants in the debate on its implications.

The fundamental premise of the Brundtland Report was that the aspirations which the developing countries had for sustained economic growth, and for Western levels of prosperity, were legitimate aspirations and could not be set aside. At the same time, the environmental aspirations of the peoples of the developed world were also legitimate, and had to be encompassed within our thinking and economic life. The measuring stick that was proposed was the requirement that we pass onto our descendants a world which was at least as productive and resourceful as the world we ourselves inherited.

This idea might easily have been taken from Edmund Burke who, in 1790, wrote

Society is indeed a contract. ... It is a partnership in all science, a partnership in all art, a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born.

Optimism and caution, therefore, were balanced throughout the Brundtland text. Development was both necessary and realisable, particularly for the Third World; prudence in the use and management of our resources was also necessary, particularly in the developed world.

The Brundtland report was a staging post in an on-going debate. On the one side of that debate is the Malthu-

sian position that the world is running out of resources and wilderness, and that sooner or later a massive depopulation of the world will have to take place, if not through population control measures, then through exogenous forces.

On the other side of that debate is the more optimistic view that men and women are capable of extraordinary creativity; that the problems which arise from the existence of many billions of people will be overcome in the future, just as they have in the past; and that

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***On the other side of the debate is the more optimistic view that men and women are capable of extraordinary creativity***

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while prudence is always desirable, our experience to date justifies an optimistic view of the future, not a pessimistic one. The best known optimist was Julian Simon, who won US\$1000-or-so from Paul Ehrlich in a wager concerning the prices, ten years down the track, of a list of commodities that were selected by Ehrlich.

Sustainable development has now emerged as a key concept in the Northern Hemisphere. In our globalized economy, sustainable development considerations critically influence public and private decision-making.

Business leaders not only have to meet their fiduciary obligations to their shareholders. They must also deal with the expectations of a broad range of interest groups on social justice and equity issues. And because the legitimacy

of business will depend upon successfully meeting these new challenges, it is likely that those companies which adapt successfully to the cultural and political changes that have taken place in Europe and North America will be the ones most likely to prosper in the next millennium.

Corporate social responsibility increasingly extends to issues associated with human rights, indigenous peoples, consumer protection rules, labour rights and corporate philanthropy. Any consideration of the international pressures reaching out across the oceans and impacting on Australia should begin with a restatement of our geopolitical situation.

Australia is a large country geographically (7.7 million square kilometres or 3 million square miles) with a small population—19 millions. It is an English-speaking nation with Western institutions and a Westminster system of parliamentary democracy. It is, however, far away from the metropolitan centres of Western political power—Washington, Brussels, London, Berlin, Rome and Paris—and so our attention is necessarily focused on Tokyo, Beijing, Bangkok, Singapore, and other Asian capitals.

For geopolitical and cultural reasons it is therefore not surprising that we find ourselves reacting and responding to developments and pressures originating in the metropolitan centres of Europe and America, rather than leading political and cultural debates. The tyranny of distance is a double-edged sword; it not only provides a degree of protection from outside influences, but it also makes it difficult for us to get involved in the early stages of events. We are almost always reacting and responding.

One important exception to this general rule is our leadership position within the Cairns Group. The Cairns Group is arguably the most successful example of an international grouping which transcends the North-South divide. And since the North-South divide is a very important fault line in the on-

going debates over sustainable development, Australia is well positioned to contribute to a resolution of the tensions which drive these debates.

It is a matter of record that we are not strangers to sustainable development as a concept for integrating the goals of economic development and environmental stewardship.

For more than a decade, business and community groups from both the environment and social arenas, together with representatives from State and Federal governments, came together to seek to forge a consensus on sustainable development, aimed at ensuring—in the Burkean spirit—that we leave a better Australia for our children and grandchildren than the Australia we inherited.

At times, this was a difficult process. But the seemingly endless hours taken up in working through the issues, in such programmes as the Hawke Government's Ecologically Sustainable Development process, have delivered benefits; not the least among them a greater understanding among all parties of each other's viewpoints.

This understanding of ecologically sustainable development was endorsed by the Council of Australian Government's (COAG) meeting in 1992 and the text is as follows:

The principles of ecologically sustainable development consist of:

- (a) the following core objectives:
  - (i) to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations;
  - (ii) to provide for equity within and between generations;
  - (iii) to protect biological diversity and maintain essential ecological processes and life-support systems;
- (b) the following guiding principles
  - (i) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
  - (ii) if there are threats of serious or irreversible environmental damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
  - (iii) the global dimension of environmental impacts of actions and policy should be recognised and considered;

(iv) the need to develop a strong, growing and diversified economy that can enhance the capacity for environmental protection should be recognised;

(v) the need to maintain and enhance international competitiveness in an environmentally sound manner should be recognised;

(vi) cost effective and flexible measures should be adopted;

(vii) decisions and actions should provide for broad community involvement on issues which affect the community.

We have here a balance, a consensus, reached after years of debate, which provided a framework for moving forward with the ongoing development of Australia's resources, together with the stewardship of our environment. These words were repeated in full in the 1997 *Natural Heritage Trust of Australia Act*. They also appeared in full in the penultimate draft of the *Environment Protection and Biodiversity Conservation (EP&BC) Bill*, this draft resulting from the negotiations extending over many months, prior to its first introduction into the Senate.

During the 1980s there was much discussion of the various tax carts which were being built and ridden into tax

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## **The Commonwealth Environment Minister now has very great powers with respect to granting approvals for new projects**

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summits and other events. The point about these various tax carts was the internal coherence and intellectual integrity of the different designs. The wheels, the axle, the frame, the side walls etc, all made a coherent whole. The same concepts apply to the sustainable development cart which also evolved during the eighties and early nineties and which I have just described.

The structural integrity of the Sustainable Development Cart has been put at risk by political developments that

took place during the brief period of 20-22 June this year. These developments show that, since 1992, the Australian business community, and its leaders, have failed to keep ahead of this debate.

During those days, very significant amendments were made to the EP&BC Bill. There were 500-or-so amendments in total which were put into the Bill during political negotiations between the Government and the Australian Democrats. The COAG understanding of ESD was deleted from the Bill, and replaced with a version of ESD which is seriously unbalanced. The political fact is that during those two days, business groups were not consulted about these changes. The text of the new version of ESD is as follows:

### **3A Principles of ecologically sustainable development**

the following principles are **principles of ecologically sustainable development** :

- (a) decision making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of a biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted .

If we compare the two texts we see a very great change in the balance. Economic considerations have almost vanished from the text. Biodiversity conservation and ecological integrity now become 'fundamental' in decision-making. No one could argue against the conservation of biodiversity, but at the same time we would like to think that no one could argue against the maintenance of 'international competitiveness' and 'a strong, growing and diversified economy'. As a result of these very rapid negotiations, we no longer see this bal-

ance reflected in the Act. In the final draft of the Bill, now an Act, environmental concerns have become almost incommensurable.

There are two issues arising from this event: the issue of process and the issue of substance. It has long been customary in Australia for those sectors of the Australian community that will carry the major impact of new legislation to be consulted at length, and in depth, about what the Government intends. This is a custom which has deep historical roots. Prior to the introduction of the Bill, this consultation had taken place and industry representatives—whatever concerns they might have had about the content of the legislation—had few complaints about the process.

Abandonment of this process, and the sudden introduction of major changes in the legislation, have created new expectations about the way in which legislation can be brought to the Parliament. Unless a political crisis is at hand, Parliament does not have the time to consider Bills of this kind in any detail. This Act has 500 pages. The language of the Act is replete with legal abstractions. The small number of people from business organizations who have been studying this Act do not claim to understand the full implications of its contents. This is a precedent which should ring alarm bells within the business community.

These events show that Australian business leaders (and I include myself) who are responsible to their shareholders for the security of the assets entrusted to them, and who are also responsible for the new investments which will keep this country competitive and prosperous, have not been as vigilant about the future levels of sovereign risk in Australia as they ought to have been. In order to understand how we got to these events, we have to go back a decade or more, and work through the processes and the debates which have brought us to this present situation.

In *The Prince*, Machiavelli reflects upon the extent to which Fortune governs the course of events, and whether there is any point in seeking to influence, at the early stages of developments, the future progress of affairs. Machiavelli writes

I compare this to a swollen river, which in its fury overflows the plains, tears up the trees and buildings, and sweeps the earth from one place and deposits it in another. Everyone flies before the flood, and yields to its fury, unable to resist it; and not with-

standing this state of things, men do not, when the river is in its ordinary condition, provide against its overflow by dykes and walls, so that when it rises it may flow either in the channel thus provided for, or that at any rate its violence may not be entirely unchecked, nor its effects prove so injurious. It is the same with Fortune, who displays her power where there is no organised valour to resist her, and where she knows that there are no dykes or walls to control her.

Using Machiavelli's metaphor, the important task is building dykes and channels, at times when it would seem quite unnecessary to do so.

From a substantive point of view the changes made to the EP&BC legislation arouse considerable foreboding. The Commonwealth Environment Minister

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***A domestic regime  
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development***

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now has very great powers with respect to granting approvals for new projects, and it is difficult to think of any part of Australia which would not, given the wide scope of the word 'biodiversity', come under the Minister's aegis. The changes to the Act significantly constrain, however, the range of his discretion to approve a new project. Saying 'no' is easy. Saying 'yes' is risky. When this fact is pointed out, the assurance is given that decision-making by the Minister will be balanced and pragmatic. This is fairly described as the 'trust me' response.

If sustainable development means anything at all, it means development which embodies the best environmental practices in the world. It means continuing progress, continuing research, and continuing improvement. But sustainable development does not mean an end to development. I do not say that we in Australia have the very best industrial and business environmental

record in the world. But we have one of the best and we have the capacity to continue to improve. A domestic regime which creates additional and difficult hurdles in the path of new projects here will not promote sustainable development, either in the Australian context, or in the global context.

The Brundtland Committee recognized that the peoples of the developing world are not going to accept as a permanent arrangement, a standard of living which condemns them in perpetuity to, for example, per capita energy consumption levels that are 5 per cent or less of the levels we take for granted in Australia and in other developed countries.

During the last century the world has changed greatly, and for the better, because of technological and scientific innovation. It is arguable that this process could come suddenly to a halt, but it is difficult to see how that could happen. It is much more likely that the next century will see even greater scientific discoveries and technological changes than the last century has seen. And thus our capacity to respond successfully to, for example, unpredicted changes in the Earth's climate, be they warming, or cooling, or greater variability, will be correspondingly enhanced.

The consequences, such as a regime of enforced carbon withdrawal, flowing from the revised concept of sustainable development outlined above does not travel easily, if at all, in the Sustainable Development Cart which was so painstakingly put together some years ago. That cart was a vehicle in which we could all travel together towards a clean environment and a standard of living for all the world's peoples, commensurate with what we take for granted as civilized in Australia.

This does not mean that we abandon energy conservation and other environmental protection measures. But it does mean that we should not foreclose on Australia's future.

In Australia, we do have to respond to the political, cultural and technological changes which originate in other parts of the world. But we can also make our own contribution and continue to play an important role in mediating and shaping those changes.

*Hugh Morgan is Managing Director of WMC. This is an edited extract from a speech given at joint BCA-WBSCD Forum on future directions for business and the environment on Monday 19 July 1999, in Sydney.*

**I P A**

# Book Reviews

## Viewing Things Differently

Stephen Dawson reviews

### *Hidden Order: The Economics of Everyday Life*

By David Friedman

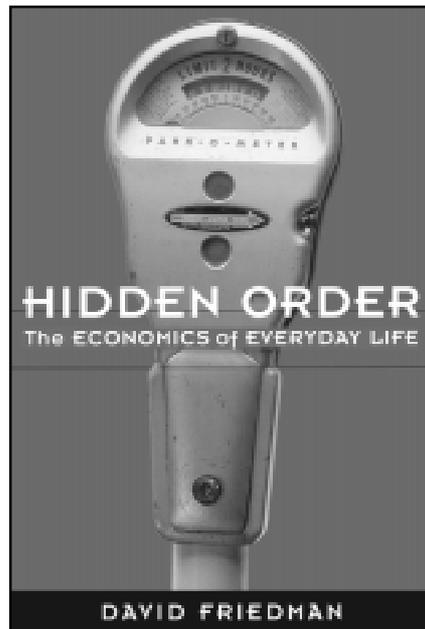
HarperBusiness, New York,  
1996, 340 pages.

The great mystery of politics—and everyday life—is that there are usually at least two ways of looking at any one set of facts. Consider the business career of Alan Bond: most Australians consider that his alleged misdeeds typify business practices of the 1980s and thereby cast a pall over the concept of deregulation, indeed, that it was an indictment of capitalism. I look at the same set of facts, accept most of the same criticisms of Bond's business practices, but conclude very differently.

Deregulation could be expected to result in bad practices ... for a while. When a society changes from one equilibrium (a heavily-regulated one) to a new one, there will be mistakes made. Australia forced business to let go of the Nanny State's apron strings, and what child does not stumble at some stage on first receiving adult freedoms? The same set of facts demonstrates to me the *virtue* of a free-market system. Bond's misdeeds were punished. Yes, in part by the state, but much more ferociously by the market.

Would Bond's initial business successes have been any less, or his failure any different, had there been no deregulation? Well, much of his success took place before the deregulation, while his failure may have been averted by the traditional calls upon the state to rescue him.

Since he is a US academic, David Friedman has probably never heard of Alan Bond. But his book, *Hidden Or-*



*der: The Economics of Everyday Life*, constitutes a very different way of looking at nearly everything from that used by most people around us. It is an odd book, combining elements of an introductory economics text, a layman's guide to economics and a qualified advocacy of the economic view of things—the 'things' being everyday life. All this is packaged with considerable wit, yet a fair degree of rigour.

Divided into five sections, the structure takes the reader carefully from knowing nothing about the subject to analysing crime, politics and interpersonal relations using economic tools.

The first section, 'Economics for Pleasure and Profit', introduces two vital concepts, and makes strong cases for them: that people are essentially rational in the choices they make and that what people actually want is best assessed by looking at what they do, rather than what they say (the principle of 'revealed preference').

The next section is a little more textbook-like, introducing supply and demand and indifference curves and applying them to producers and consumers in the context of a heavy

thatch of simplifying assumptions. But this description does not do the section justice. How could it when Friedman entitles a chapter 'Ptolemaic Trade Theory'? He argues that the theory of trade espoused in most public forums is akin to the pre-Copernican view that the Sun and stars revolve around the Earth, each firmly located in its own glass sphere, and that economics' Copernicus—David Ricardo—overturned economics' version of geocentrism with the publication in 1817 of *The Principles of Political Economy*. So:

It is rather as if the *New York Times* had carried editorials worrying about how the *Apollo* expedition was going to avoid crashing in the first of the crystalline spheres—the one at the orbit of the moon.

Ricardo gets an earlier mention as the inventor of a powerful tool in economic analysis: the simplification and stripping away of the unessentials from a problem to allow understanding.

In some respects there is a void in the book, hinted at by the use of Ricardo. Friedman skips virtually all contributions to economics between Alfred Marshall and the public choice theorists of recent decades. Thus the name 'Keynes' and its derivatives are not mentioned even once throughout the book—something that must make *Hidden Order* almost unique in economic literature.

Section III takes the book to a new, high, level. It reinserts most of the complications (monopoly, oligopoly, transaction costs, time changes and luck) assumed away in the second section, and then proves that the general rules previously derived largely continue to apply.

The fourth section—'Standing in for Moral Philosophy: The Economist as Judge'—commences by disavowing any capability for the science of economics to provide moral answers. But it then makes the case for economic efficiency being a useful stand-in for vague, and difficult to measure, notions of overall happiness. As in the

rest of the book, terms are defined in down-to-earth and easily digestible terms, so we are not left wondering precisely what is meant by 'efficiency'.

Such things as price controls reduce overall economic efficiency and, by proxy, happiness. But Friedman distinguishes between cases in an informative way, pointing out that price controls on petrol have a much more immediate effect, and therefore more immediate reduction on welfare, than rent controls. Indeed, he speculates that the greater public support for rent controls stems from the fact that its initial effect is all 'good': a transfer from landlords to tenants. The adverse effects take longer to appear.

Section V is entitled 'Applications: Conventional and Un'. It is here that Friedman uses the same tools he has developed for analysis of the economic marketplace to analyse the political marketplace, the motivations and best methods for dealing with criminals, altruistic behaviour, and the best choice of both marriage partner, and system of marriage (thus, legalizing polyandry would improve the average lot of women!).

The arguments of this book are powerful, the lens through which the world is viewed is utterly different to that used by nearly everyone. And problems with theory are not skimmed over. At many points during the book I was thinking, 'Ah, but what if this complication is added' only to find on turning the page that Friedman had added it, and discussed its effect upon his conclusions.

The style is clean and entertaining, although at times somewhat disconcerting, with sharp cuts to what appear to be digressions. They almost all, however, are soon woven back into the preceding point to good advantage. The many examples justify the subtitle ('The Economics of Everyday Life'). Still I fear I have failed to give adequate attention to the book's entertainment value. So I'll leave you with Friedman's 'Economics Joke #2':

Two men encountered a hungry bear. One turned to run. 'It's hopeless,' the other told him, 'you can't outrun a bear.' 'No,' he replied. 'But I might be able to outrun you.'

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**I P A**

## Green Power

Roger Bate reviews

### *Global Greens: Inside the International Environmental Establishment*

by James M. Sheehan

*Capital Research Center, Washington DC, 1998, 213 pages, US\$25*

There is a rapidly expanding interest in the issue of 'global governance'. With issues ranging from European tax harmonization to international treaties on organic pollutants, authors of academic papers and more popular books are finding avid readers amongst the world's intellectuals. James Sheehan's book is one of the first to discuss the role that non-governmental organizations (NGOs) have played in this international decision-making process, and certainly the first to be highly critical of their role.

From the beginning of the book, Sheehan's forthright prose leaves the reader with little doubt as to his opinion of most NGOs, especially green ones. He considers that few Americans are aware that environmental organizations, 'an ideologically driven political force staffed by professionals and financed by millions of dollars in public and private funds', exercise real power in the conduct of diplomacy and the creation of international policy. Using international law and assisted by the UN and other international agencies, these groups are working behind the scenes to undermine national self-governance, economic freedom and individual liberty. If this continues unchecked, Sheehan foresees an ominous future as the last of the central planners advance their global agenda through a professed concern for Mother Earth.

Sheehan's rhetoric will raise the hackles on any environmentalist (radical or otherwise), and he probably overplays the power of environmental NGOs at international meetings. But whether one favours or distrusts powerful environmental groups or international agreements, it does appear that a considerable loss of national sovereignty is occurring, and without any public debate.

Historically, international disputes have been resolved through bilateral contractual agreements or via arbitration involving the countries affected by a given disagreement. The new UN-

backed regime evolving under international environmental regulation furthers ventures of international co-operation that try to secure near-universal participation. No longer are only a few countries involved in a dispute, it has become a global issue. First of all, this engenders the idea of 'the global commons' where it is possible to conclude that borders are no longer relevant—emissions of carbon dioxide in Minneapolis become the concern of people in Lagos and Ulan Bator. Secondly, international agencies, created as an ongoing authority, are required to implement and direct the details of the global plan. Finally, as borders are blurred, there is an expanded role for NGOs to act on behalf of an ambiguous 'humanity' or 'Earth'. A detailed discussion of exactly how this process will undermine sovereignty is unfortunately lacking in Sheehan's book—however, it can be found in books such as *Sovereignty Matters* by Jeremy Rabkin (American Enterprise Institute, Washington DC, 1998).

The strength of Sheehan's book is in its discussion of the various UN-sponsored international meetings (and the antics of the various participants). Examples include the Rio Summit, the Cairo population meeting and the recent climate meeting in Kyoto, most of which Sheehan attended. Sheehan points out that the various business and environmental NGOs, who have restricted access to politicians at home, have far greater freedom to lobby politicians and international bureaucrats at UN meetings. NGOs heavily influence many UN agreements such as the Basel Convention on hazardous waste, which creates barriers to trade in scrap metal, and even hampers donations of used clothes destined for the world's poor. Sheehan shows how protectionist northern business interests ally with environmental NGOs in this type of process.

Perhaps the most interesting discovery from Sheehan's analysis is that green groups who once opposed UN and World Bank programmes have been drawn into the bureaucracy by UN money. For example, in 1995, a coalition of green groups, including Friends of the Earth and Greenpeace, claimed that the World Bank's Global Environment Facility was 'dysfunctional, undemocratic and unaccountable'. Several months later, and after pledges of several grants, the same groups thought the GEF was 'essential to solving critical environmental problems'. A partial result of this UN largesse and green hypocrisy is that at last year's Kyoto climate meeting there were 3,500 repre-

sentatives from (predominantly European) pressure groups and only 1,500 delegates from member governments. Sheehan cites examples of Third World participants at the UN meetings being repeatedly ignored in favour of alarmist 'eco-imperialist' greens, whose presence at the meeting was larger and more vocal.

For anyone interested in the environmental community (especially of America), this is a useful reference book. There are over forty pages of tables devoted to explaining who gets money from whom, and how it is spent. It also provides coverage of which people sit on which important UN Environmental Committees for key treaties like ozone, climate, biodiversity, forestry and many more. It opened my eyes to how big a business environmentalism has become.

Sheehan concludes the book with the following statement:

Global Greens have put their faith in the 'process'. They have achieved success even when their ideas have been discredited. What's needed now is the vigilance to detect their manoeuvrings and the skill to overcome them.

Most people, especially non-Americans, will disagree with the idea that the green movement is harming the world and needs to be stopped. However, it is no longer safe to assume a benign influence, given the weight of examples that Sheehan accumulates where green groups' actions contradict their rhetoric and create adverse results.

Roger Bate is Director of the Environment Unit at the Institute of Economic Affairs.

I P A

## Character Assassination

Michael Cook reviews

### *The Devil and James McAuley*

by Cassandra Pybus

University of Queensland Press, 1999

When he died in 1976, 'so clean a spirit' was a typical epitaph for James McAuley: poet, co-author of Australia's most famous literary hoax, public servant, founding editor of *Quadrant*, literary critic and anti-Communist campaigner.

Cassandra Pybus, however, can barely conceal her detestation of this 'iconic intellectual of the right' in her new biography, *The Devil and James McAuley*. Instead, she paints a Dorian Gray portrait of a lower-middle-class snob, a man tormented by inner demons, a credulous and fanatical Catholic, a man malignant towards his foes and traitorous towards his friends, an adulterer, an alcoholic and a hypocrite.

She saves her final assessment of this complex and talented figure for her book's incredible postscript: that the key to understanding McAuley's life and opinions was self-torturing dread of repressed and unacknowledged homosexuality.

But after having dined out on McAuley's reputation and spat the bones on the floor, Pybus hasn't enough credit to pay the bill. As unbelievable as it may seem, despite 26 pages of endnotes, for almost none of her seamy allegations is there any independently verifiable documentation.

Instead, she relies on reminiscences by McAuley's ageing friends and colleagues of events which happened up to about 60 years ago, arguable interpretations of contemporary correspondence, recollections of gossip and recollections of gossip about gossip. All of which she solemnly buries in endnotes without querying the reliability of her sources' memories or the strength of their prejudices.

Such is her suspicion of her subject that she presents as fact events whose evidence seems to be simply that McAuley was the awful sort of person who would have done this awful sort of thing.

Here is one outstanding example of Pybus at work. She twice makes the damning claim that McAuley was an ASIO informant who doxed on colleagues during the Vietnam War period. As evidence she refers both times to a book by David McKnight which claims that ASIO used to supply McAuley with briefing papers. But McKnight says *nothing, zilch, zero!* about reports supplied by McAuley on staff and students.

This is history by hearsay and hunches. If a historian has a hypothesis, she ought to produce documents. If there are no documents, she ought to shut up. Save rumours for cold nights, a warm fire and a bottle of port.

The stated aim of *The Devil and James McAuley* is to 'foreground' McAuley the political intellectual. But what Pybus achieves is something quite different: a biography which paints him as a deviant, sterile sport, a weird one-off in intellectual history. She interprets his fierce anti-

Communism as a transferred fear of diabolical activity and his religious beliefs as a transferred fear of sublimated homosexuality. Ultimately 30 years of McAuley's voluminous writing are trivialized as the working out of childhood hang-ups.

Despite much detailed and painstaking research, this biography sheds very little light on McAuley's place in Australian intellectual life. A great pity, for his intellectual journey is fascinating partly because of its links with other intellectual and literary figures, both here and overseas.

It is extraordinary, for instance, that Pybus has overlooked the influence of Sydney University philosopher John Anderson on McAuley. He claimed that he had shaken off Anderson's ideas, but with many of McAuley's students winding up as libertarians and anti-Communists (including Donald Horne and Peter Coleman), surely something must have stuck.

Echoing other critics, Pybus treats McAuley's conversion to Catholicism as a flight from his own inner turmoil. This view ignores conversions by other major literary figures, like T.S. Eliot or David Jones in the UK, Francis Webb or Les Murray in Australia, and James Baxter in New Zealand. The American poet Allen Tate was a Catholic convert whose career, social thinking and philosophy bear interesting similarities to McAuley's. Something funny was going on there.

By treating McAuley as a unique case, Pybus misses important leads which could have made her work far more substantial. Why did both of the Ern Malley hoaxers, McAuley and his mate Harold Stewart, turn to religion, McAuley as a Catholic, Stewart as a Buddhist? Why did they both hanker after 'traditional' society?

If there is one criticism of McAuley I would share with Pybus, it is his penchant for apocalyptic posturing. 'Suddenly this one huge glaring visage, this enormous mask made of blood and lies, starts up above the horizon and dominates the landscape,' was the way he described the threat of Communism in *Quadrant's* inaugural editorial. He had his reasons—50 million or so sacrifices offered to the Moloch of Marxism (as he might have put it) were more than enough. But while this kind of over-heated rhetoric wins friends in some circles, it makes enemies in others. Like Cassandra Pybus.

Michael Cook is editor of the Hobart-based magazine *Perspective*. He did a PhD on McAuley's poetry.

I P A

REVIEW