The Sun Rises in the West Conference Papers

The Mankal Economic Education Foundation and the International Trade and Business Law Review were proud to present the Sun Rises in the West Conference held in Perth on 7-8 October 2010.

The theme of the Conference was The Governance and Commercial Structures: Foundations of Western Law and Liberty. This Conference made a contribution to the understanding of Western Civilisation and its legal, social, political, and economic traditions. It raised awareness about issues which threaten individual rights and freedoms, and indeed the very way of life which we currently enjoy. The themes of the Conference covered legal, cultural, educational, economic and socio-political issues, involving the active participation of leading experts in their fields, thus making this Conference truly unique. A selection of papers presented at the Conference has been included in this edition of the International Trade and Business Law Review.

Mankal Economic Education Foundation was pleased to work closely with the International Trade and Business Law Review to facilitate the Conference by underwriting and administering this important event. In supporting events such as the Sun Rises in the West, Mankal aims to strengthen the free market system in Western Australia and Australia, by promoting ideals of voluntary co-operation, choice, personal rights, limited government and accountable resourcefulness of individuals. It is a registered non-profit organisation with an independent board. Mankal achieves its aims by financing and organisng a number of projects, including: events for the exchange of ideas; seminars and student scholarships to promote a greater understanding of the concepts which underpin free societies; policy papers pertaining to Western Australia; and, an alternative book store for economic and Australian history books.

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Perth Conference

www.sunrisewinthewest.org
their pledges as West Australians is complementary with an ardent loyalty to Australian nationalism. The end of another hundred years — no matter what vicissitudes of fortune may intervene — will find this State great and prosperous, the home of happy and united people, stimulated by high tradition, qualified by talented character, and determined in love and patriotism, to hand on the choicest traits of liberty.\(^2\)

The cultural mix of Western Australians today extends beyond the `British race`. It is enriched by migrants from many different nations, and optimism and belief in improvement remain. Patriotism and the defence of liberty also continue, as does the ability to respond to adversity. While being strong supporters of the Commonwealth, Western Australians displayed angst about centralisation and tax when the proposed Resources Anti-Mining Tax stirred action with public rallies on the banks of the Swan River in 2010.

While the early British settlers struggled against the hostile environment and an unfamiliar setting, they replicated a number of institutions from Britain which provided the basis for the colony to flourish. It was not simply the various commodities that made the state so rich and prosperous. From sandalwood to iron ore, the accumulation of wealth and the establishment of a stable political environment have facilitated development and improvements. Indeed, geographically and geologically, Western Australia is not unique. Many African nations have greater mineral and biological wealth, but seem to wander from military dictatorship to lawlessness, without sustaining a viable society. What makes Western Australia successful is its direct link to British institutions, and the introduction of these ideas, institutions and practices to the Western third of this continent.

Historian James Belich argues that one of the strengths of English-speaking settler societies lies in their ability to `clone` and break up into smaller, representative regions or zones.\(^3\) A closer reading of history would surprise many people who today believe that the current Australian states are the end point of governance arrangements. Such circumstances have been different, and what is now Western Australia could be composed of many different states and territories. We see this evolution in the cities from the Northern Territory for instance. In 1829, Captain Stirling established and, for a little over three years, administered the Swan River settlement. While he had a number of executive responsibilities far broader than those of a Premier or Governor today, he worked within a system where his power was limited by conventions which, in a modified version, remain today. The strength of the society created in 1829 is its ability to adapt and continuously be enriched, and it benefits from a number of foundational concepts around man’s place in the universe and his desire to enjoy freedom. The beauty of these ideas and institutions is their ability to last beyond kings, queens, presidents, prime ministers, empires and even epochs.

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In this context, there are at least two opposing understandings of 'law'. First, there are those who argue that premodern principles or rules exist independently of the lawmaker. On this view, the success of our Western Civilisation is largely due to the acceptance, maintenance and implementation, by successive generations, of moral rules and values which derive from God or are inherent in the human being. This understanding of law is embodied in the 'natural law' tradition. This tradition has always maintained the inadequacy of 'law' which associates legality solely with formal validating criteria such as a ruler's express will or a judge's authoritative determination. The tradition, in general, has sought to test enacted law against objective moral criteria. In doing so, it has undoubtedly curtailed the excessive use and abuse of governmental power in the West.

Second, there are those who see law merely as the imposed will of a legislator or judge. This understanding of law denies the existence of premodern principles or rules. It embraces a philosophy of relativism, which assumes that people have only those rules which are allocated to them by policy-makers and legislators, whether they are legislators or judges. This philosophy of relativism is based on the assumption that human beings have the capacity to decide which societal views should be promoted or repressed. For example, when judges or legislators adopt so-called 'social engineering' laws, such as to whether there is a 'right' to euthanasia, or a right to same-sex marriage, or to abortion, to name just a few, they essentially make an arbitrary and subjective decision on what is deemed fashionable at the moment.

The debate as to whether the former or the latter understanding of law best promotes liberty has been a central issue during this Conference. For many reasons, no agreement may be reached. But the debate between natural law proponents and their relativist detractors is a profound debate that we cannot conduct tonight and, therefore, it needs to be the subject of another Conference. However, I should like to remind you that in 1993, the late Professor Eugene Kamenka in an article 'Australia Made Me ... But Which Australia Is Mine?' alerted us to the dangers of embracing relativism, especially its capacity to destroy 'culture'. He said:

A crude concept of 'value-free' social science as implying moral, cultural and even epistemological relativism, together with a leveling version of democracy, does indeed end in the desire to excite the concept of judgement from social and moral life and in giving the word 'culture' many meanings and thus no meaning at all. 

We all know that without 'culture', Western Civilization cannot nourish itself.

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THE LIMITS OF PROPERTY AND FREEDOM

SINCLAIR DAVIDSON

The truth is that capitalism has not only multiplied population figures but at the same time impoverished the people's standard of living far beyond expectations. Neither economic thinking nor market神话 nor capitalism. The results speak for themselves. The market economy needs no support. It can be compared to the waves of the sea. It is just that it requires, consummation.

- Ludwig von Mises

I. INTRODUCTION

It is with some hesitation and reluctance that I propose to disagree with the great Austrian economist and European liberal Ludwig von Mises. While I agree that capitalism has created results, it is not enough to simply look around and see its monuments. Capitalism and the propagandists there is a great tension between the underlying institutions that enable between individual freedoms and collective coercion has long been debated in a number of philosophical and political frameworks. The trade-off is still not well understood, and it is quite clear that the extent of collective coercion has increased while many personal liberties have declined.

II. THE EXCHANGE OF PROPERTY RIGHTS

Adam Smith famously said that little else but 'peace, easy taxes, and a tolerable administration of justice' would carry a society from barbarism to opulence: 'the real being brought about by the natural course of things'. The 'natural course of things' is made up of a 'common prosperity in human nature ... to trade, barter, and exchange one thing for another'. Trade presupposes ownership and property rights. Unfortunately, while economists have tended to concentrate on the benefits and costs of trade, they have tended also to ignore the costs of 'exchange' of property rights. It has only been in the last 50 years or so that economists have exchanged.

Many observers contend that capitalism and the market economy revolve around Smith's 'civilized society' and that the present system of cooperation is at all times instead of the co-operation and assistance of great faculties, while his whole life is scarce sufficient to gain the friendship of a few

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