

Mannkal's Musings*

MANNKAL FOUNDATION'S
MID YEAR REVIEW

July 2011 Vol 3

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Upcoming Events

We have an exciting schedule for the latter half of 2011, as Mannkal plays host to a number of prominent international scholars who will be speaking on a range of important issues.

For more details, or to confirm a booking for any of these events, please contact Nicki, nwilliams@mannkal.org

Vaclav Klaus President of the Czech Republic

President Vaclav Klaus

Where: Duxton Hotel, Perth

When: 22 July 2011

Mannkal, in conjunction with The Institute of Public Affairs, is pleased to present a special lunchtime event with the President of the Czech Republic, Vaclav Klaus.



He played a major role in reforming and invigorating the economy of this former Soviet-controlled country.

President Klaus will be presenting *Threats to Freedom in the 21st Century*. To register for this event please go to klaus.ipa.org.au or email pgregory@ipa.org.au.

Frontier Centre Internship

Where: Canada

When: January and February 2012

Mannkal will select one WA student to complete an internship at the Frontier Centre in Canada. The student will conduct research in one of the centre's main policy areas, such as health, education or property rights. For more information, please email emma@mannkal.org. Applications close on 9 September 2011.

For more of Ron's "Mannerisms", his monthly thoughts on a range of topics, please go to

www.mannkal.org/mannerisms/

Ron's most recent Mannerism's are titled: "Fond memories of growing up in a country town", "Canberra is 200 square kilometres surrounded by reality", "How to be humbled" and "Our tarnished regulators".

Mises Seminar

Where: Sydney

When: 25-26 November 2011

The Mises Seminar is a national event that aims to educate the public in Austrian-school economics and libertarian theory in the tradition of Ludwig von Mises, Murray Rothbard and Hans-Hermann Hoppe, while celebrating the notable contributions of other Austrian-school economists such as Friedrich Hayek and Israel Kirzner.

Mannkal will select one student from each WA University to attend this conference. For more information, please email emma@mannkal.org. Applications close on 9 September 2011.

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Ron Manners
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John Hyde
Board Member

John Corser
Board Member

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Joint-Trustee

Judy Carroll
Executive Assistant

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Senior Fellow

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Research Assistant

Sarah Pendal
Research Assistant

Luke McGrath
Research Fellow

Jessica Pendal
Research Fellow

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2011 Chairman's Address

Reflecting on a Great Mannkal Year

Distinguished visitor



It is our great pleasure to be hosting President Vaclav Klaus of the Czech Republic, for a visit to Perth (22 July). President Klaus, a fellow member of the Mont Pelerin

Society, has transcended politics to become a world Statesman. His ability to explain the benefits of sound economic policies to the people of the Czech Republic has resulted in his re-election as President. He is an outstanding example to the free world's political leaders.

Mounting anger

Our feedback (via conversations, emails and Facebook) shows the mounting anger among Australia's 'new generation' at being left to 'pick up the tab' from the 'current generation's' spend-thrift ways (we could call it 'financial illiteracy'—it's difficult to recall any government projects, Federal or State, that are ever brought in on time and within budget). This is not peculiar to Australia, as autocratic governments all over the world are discovering that they are trying to govern the ungovernable.

Currently, there are about 600 concurrent 'rolling revolts / internet revolutions / Facebook revolts / Arab Springs / Jasmine Revolutions', or by whatever name these Internet-driven, popular youth uprisings are called (Google the Max Keiser Report).

The possibility of this spreading to China constantly exercises the mind of the Chinese Communist Party, as it puts its economy under intense pressure to maintain an 8% annual growth to keep its 16 million new job market entrants from similarly rising up in jobless protest.

Closer to home, the nonsense emanating from Canberra on a daily basis is also being queried by our youth (more vigorously than by the tame daily media majority).

More vigorous questioning required

Young people have noticed that the daily media have not picked up on the latest Canberra Scam. Federal

Treasurer Swan, in another attempt to be popular, has added a sweetener to his budget in the form of a pledge to 'give' every Aussie 'pensioner' a set-top-box (to enable analog TV sets to receive digital signals), whether they want one or not. The costing for this offer is \$308 million.

These 'boxes' are obsolete technology in most of the developed world and can be picked up for about \$30 per box. The government's costings allows \$400 for each box (about the price of a new digital TV set). So the questions to be asked are: "Who gets the other \$370 per box?" and "Who gets the balance of the \$380 million?"

We never found out who got all those millions from the Pink Batt insulation fraud or the School Halls/Library scam. I wonder if we'll find out this time. All we know is that the debts incurred are inevitably passed to the 'new generation' as a stark reminder of President Hoover's observation, 80 years ago: "Blessed are the young for they shall inherit the national debt."

Measuring Mannkal's Success

Having an engineering background, I like measuring things. How do we measure Mannkal's success?

Since registering Mannkal.org 14 years ago, we now maintain a lively interaction with the 335 Mannkal Scholars/Students who have attended conferences, submitted papers and become involved in the exciting world of free-market ideas.

It was a delight to find that one of our Mannkal Scholars is now sponsoring students to events in similar fashion. As their circumstances allow, many of the other 334 may do the same, and that would have the potential of "making a difference".

This is our third edition of *Mannkal's Musings*. Congratulations to our editor, Emma Crisp, for bringing it all together and I hope that you will enjoy these insights.

Ron Manners
**Chairman,
Mannkal Economic Education Foundation**

Mannkal Sundowner Series

Mannkal's first event for the year was part of the Sundowner Series, and featured Matt and Janet Thompson. Matt and Janet presented "The Death of Property Rights", which encompassed their personal struggle to retain their property rights, as well as the broader history and impact of property rights.

Stephanie Goodlad—Mannkal Scholar reports:

On the 10th of February 2011 Mannkal supporters met at the Hyatt hotel to support Janet and Matt Thompson in their struggle against tyrannical bureaucracy. In 2001, the Thompsons brought the 'American dream' of self-empowerment through economic opportunity from Texas to Narrogin. First they were granted permission to run a cattle feedlot or a 'B&B for cows' for nearly 15,000 cattle. In 2007 they applied for an increase in their license to expand their thriving stock of 10,000 to their original approved figure. However, after Matt declared his scepticism about anthropogenic global warming to the WA Lot Feeders Association, complications arose.

The Department of Environment and Conservation (DEC) reduced their stock maximum to 6,000. The Thompsons made it clear that they could not survive under this red tape as they had already invested in infrastructure for the approved number of stock. To make matters worse, a new condition was added to their license pertaining to odour emitted from the property. It should be noted that the Narrogin Local Government have at all times been fully supportive of the Thompsons' project. Since this time, the Thompsons have taken their fight for the right to produce to court. Their moving story reflects the struggle of many individuals who pursue property rights in the face of environmental and centralist regulations.

Clarence Ling—Mannkal Scholar reports:

I attended "The Death of Property Rights" event on Feb 10, 2011. In attending this I was shocked at how arbitrarily the Department of Environment and Conservation (**DEC**) could behave. We should live under the rule of law and part of having the rule of law is that we must have stable and general rules of law. What has happened to the Thompsons is the law being used as a tool to arbitrarily exercise power.

I am a member of the Western Australian Union of Liberal Students (**WAULS**), a student branch of the

Liberal party. One of my roles was to draft policy motions to be debated at the State Conference upon success in the policy forum. I soon realised that I could use this as a medium to advance the Thompsons' interests or at least prevent recurrence of such problems. Preventing the DEC arbitrariness would make good policy and have a substantial effect on people's lives; I thought such a policy could make a real difference.

I decided to contact the Thompsons to find out more information on the issue. From the material and accounts given I realised that the DEC are full of dirty tricks such as delaying tactics in court, and changing policy as they please. This is not to act in accordance with the rule of law. Laws must be as stable as possible. The Thompsons also informed me of problems with the DEC Appeals process.

The Thompsons explained to me that the source of DEC power was the Environmental Protection Act (EPA) section 5. It reads:

Inconsistent laws

Whenever a provision of this Act or of an approved policy is inconsistent with a provision contained in, or ratified or approved by, any other written law, the provision of this Act or the approved policy, as the case requires, prevails.

From my experience trying to promote my policies to WAULS, and speaking to the lay person, most people do not realise the significance of this provision. They might regard it as a harmless provision, so they think nothing of it. They might say: Surely the Minister cannot do that? What about the Constitution, surely it does not affect the Constitution? Now, I must clarify that case law may constrict section 5's actual breadth, but case law can be overturned and it is no excuse for a poorly drafted provision.

"Any other written law". This is an odd construct, broadening an already broad provision. The Thompsons suggested that section 5 be repealed

for being unconstitutional and these words are the strongest indicator of unconstitutionality.

In its literal meaning, it could mean overriding both the State and Commonwealth Constitution. If it can be read down as not overriding the Constitutions themselves, there is still a question of statutes from certain constitutional powers such as section 51 concurrent power of the Commonwealth Constitution. Thus, section 5 makes the EPA like an intermediary Constitution, a Constitution on an in-between level that no-one agreed to. During the WAULS Policy Forum, Alexander Butterworth, former WAULS President concurred with me that section 51 of the Commonwealth Constitution may be affected but only cited the external affairs power as potentially being affected.

Furthermore, assuming we did not have conflicts with Commonwealth legislation, section 5 still theoretically affects all State legislation such as the Transfer of Land Act. There could be a DEC policy to restrict the transfer of title to people who are on some black list of environmental offenders. This is objectionable because people should have the right to own land and transfer rights to whoever they want. The wide breadth over State law could raise issues of unconstitutionality with the State Constitution, as Alexander pointed out in seconding my motion in the policy forum. There is no excuse for sloppy wording like "any other written law".

My successful policy motion was that the Liberal Party pushes for section 5 to specify what laws it prevails over. By doing so, assuming that the Liberal MP who will push for it has some sense, it will limit the scope of this provision; making it clear that it does not prevail over the State and Commonwealth Constitutions and only prevails over the bare minimum of State legislation. The motion must still pass through State Conference. And, we have to make sure whoever decides the new scope of section 5 is informed on how dangerous this law can be, and that they give it a narrow scope. It must still go through Parliament.

Nevertheless, this is a small victory. By arguing for limitation to the scope of section 5, it will no longer be able to prevail over the Constitutions, and there will likely be legislation that prevails over the EPA, when we successfully ratify the policy. WAULS is now aware of the implications of section 5 and will be more receptive of further change. There is more awareness of this issue amongst people politically involved. Perhaps it is time to make people involved in WA politics more aware of the Thompson case. The question is not whether we do it; it is how. People just do not understand the implications of this provision on its face. From my experience with WAULS and the lay person, many are not aware that as long as we have this expansive DEC power we are in some respect, on the road to serfdom.

Mannkal ECOMS Student Dinner

Mannkal's first student event for 2011 was held in conjunction with the Economics and Commerce Society of UWA. On the 30th of March, 60 students met at the Subiaco Hotel to hear Sarah Newton-Palmer present "Finding Your Inner Self"—advice on how to make the transition from Uni to the workplace. It was a great success and will be made an annual event!



(L-R) Sarah Newton-Palmer, Ron Manners



(L-R) Nick Holt, Louisa Flavel, Adriarne Gatty



Mannkal students enjoying the presentation.



(L-R) Gabby Wada, Felicity Karageorge

Overseas Internships

Felicity Karageorge – Mannkal Scholar at the Frontier Centre for Public Policy

At the end of last year I was awarded a Mannkal Scholarship to travel to Canada and work as an intern for the Frontier Centre for Public Policy, an independent think-tank operating in Western Canada. I spent six weeks working in Frontier's Winnipeg and Regina offices, which are located in the Canadian prairies. While at Frontier I was able to participate in the daily operations of a think-tank. I took part in policy planning meetings, met with some of Frontier's supporters, helped out at events, and appeared as a speaker on Frontier's online radio commentary. I was taken around the two cities by some of Frontier's associates. I toured art galleries, museums, went ice-skating and also watched a couple of ice hockey games. Moving from an Australian summer to a Canadian winter took some adjustment, as temperatures dropped as low as -35C, but living in snow-covered cities was an exciting change from home.



My main task as an intern was to research and construct two policy papers on issues that affect Western Canada. The first policy paper featured an examination of the Canadian Equalization Transfer Program, which is a Federal Government initiative that operates to ensure that all provincial Governments receive adequate funding to finance public services. I compared this program to the Australian equivalent, the GST distribution system. While the Australian system is better formulated, both distribution programs operate as a welfare scheme for fiscally weak state governments, as a government receives more funding when the local economy performs poorly. This causes poorer states to become dependent on federal funding, without offering an incentive to develop their state's economy. The paper also proposes reforms to minimise this growing dependency through improving public sector efficiency and encouraging private investment.

My second policy paper was concerned with Property Rights in the province of Alberta. The paper analyses several claims made by the Wild Rose Alliance, a conservative party recently founded within the Alberta provincial parliament. The party claims that the provincial government has impacted on the property rights of individual landowners by enacting policies that expand government powers to interrupt or extinguish an individual right to use their property. The Wild Rose Alliance has also outlined several reforms they would implement if they were to win government. My task was to assess the validity of these claims

and examine which reforms are necessary to better protect landowners.

I was also able to write an op-ed, which examines the current state of the Perth Taxi industry, advocating for deregulation and removal of market caps to encourage competition, decrease wait times and provide a higher standard of service for passengers.

At the conclusion of my internship, I travelled to Washington, D.C to attend the International Students for Liberty Conference. The conference comprised over 500 students, mostly from the United States, all committed to the promotion of liberty. It was fantastic to meet and chat with other students passionate about issues effecting liberty, and also to meet with representatives and conference speakers from some of the large US think-tanks such as the Cato Institute and Atlas Foundation.

I wish to thank Ron Manners and the Mannkal Foundation for this amazing opportunity. For any students who are considering applying for international internships, I encourage you to take up the opportunity. I certainly had the experience of a lifetime in North America that I will always cherish.



Felicity enjoying the snow in Regina!

THE PERILS AND PITFALLS OF TAXI PLATE OWNERSHIP

Felicity Karageorge - Mannkal Scholar

Its 3:00 am on a Sunday morning—do you know where your children are? If they are between the ages of 18 and 25 and currently residing in Perth, they are probably on the streets of Northbridge, waiting for a taxi.

The taxi industry fails to live up to Western Australians' ever-dwindling expectations of it. Waiting times continue to rise; passenger complaints are at record highs; and taxi ranks at peak periods are violent calamities waiting to happen. Street violence in popular nightspots around Perth occurs because police and nightclub security staff are unable to diffuse escalating situations by moving patrons out of problem areas, due to a shortage of taxis. Each year, 1 in 4 taxis receives a complaint from a passenger, according to the Department of Transport.

The real pitfall of the taxi industry lies in how it is regulated. The number of taxis permitted to operate is controlled by the State Government, which claims it can control prices and enhance the safety of passengers by doing so.

But how could they? Who really knows what number of cabs would optimally satisfy 1.7 million Western Australians, and whoever they are, why are they not making millions predicting the share market instead of working for the Taxi Industry Board? What's more, the Australian Productivity Commission rejected taxi caps almost a decade ago, instead arguing for an open market. Yet the restrictions remain in place in most Australian states.

The over-inflated value of taxi plates is a clear indication that the Taxi Industry Board has not released enough plates. Such licenses had an average "grey market" value of \$217,871 in 2007-2008. Plate holders lease their plates out to taxi drivers (many are not actually owned by drivers) for around \$355 per week, or \$18,000 per year. If there were enough plates out there, people wouldn't have to pay hundreds of thousands for one and a large part of your taxi fare would not end up in plate holders' pockets.

There are 1,942 plates for taxis in Western Australia. It's an offence to offer rides for a fee without one. Out of those 1,942, only 1,115 are privately owned and the rest are leased to drivers by the government. In the case of privately owned plates, the system is a government privilege with private beneficiaries.

It's a protected safe investment scheme, too. So long as the government continues to perpetuate a shortage of plates, the value will stay high. It's only made token releases in the past few years. Plus, as the dependence placed on limited taxi services becomes heavier due to Perth's bulging population, the value of plate ownership will continue to soar.

The burden of this regulatory loophole falls onto the drivers and passengers. Fares remain high, the quality of service continues to disappoint, and the limited number of taxis on the road fails to cope with the high demand.

It doesn't have to be this way. There are places where governments no longer control the number of cabs or the fares they charge. New Zealand abandoned quantitative control of the taxi market over 20 years ago. With the government leaving the number of cabs and the price they charge to the forces of supply and demand, entrepreneurs created new jobs, better service, and lower prices. A 2008 OECD study of seventeen countries found that the New Zealand experience is not unusual; "Increasing numbers of OECD countries have removed or loosened supply restrictions on taxis. The results of these reforms have been strongly positive, with reduced waiting times, increased consumer satisfaction and, in many cases, falling prices being observed."

Western Australia is slowly progressing towards the New Zealand paradigm. The government ceased to sell licenses in 2004 and drivers are now able to lease licenses from the government directly instead of selling a monopoly right to a few arbitrarily privileged individuals. And the government has also introduced peak period and restricted plates available for lease.

However, calls to tender government leases are happening far too infrequently, allowing licence owners to continue to wield power. Until the government gives up trying to guess the "correct" number and opens up the industry entirely, people of Western Australia can expect the issues that plague the industry to continue.

As Perth's population continues to grow rapidly, it is crucial that our services industries are equipped to cope. As we continue to reap the benefits of the boom, the Department of Transport has an opportunity to remove restrictions from the industry. As a side benefit, your children will get home quicker and safer.

Overseas Internships

Lazar Pravdic - Mannkal Scholar at the Lion Rock Institute



Having found out just a week before leaving Perth that Hong Kong ranked on top of the Heritage Foundation's Index of Economic Freedom for the 17th year running made me all the more excited about spending time working in one of the world's freest, competitive financial centres, for one of Hong Kong's leading non-profit, free market think-tanks.

Hong Kong is such a paradox, having achieved such rapid economic development and prosperity that few, if any, nations with an area of less than a 1000 square kilometres have been able to experience. As Prof. Milton Friedman reflected around 15 or so years ago, "If you want to see capitalism in action, go to Hong Kong." The economic miracle that HK had achieved by the early 90s when HK had overtaken Britain in per capita income was a product of a strong adherence to a policy of small government, low tax and light regulation which had been set in place by such great men as Financial Secretary Sir John Cowperthwaite who ran Hong Kong's economy between 1961-79 along such classic laissez-faire lines that he even refused to collect economic statistics for fear that this would only give government officials an excuse for more meddling. It is this sort of approach that encouraged the entrepreneurial spirit of its people to develop and flourish and made libertarians like Friedman admire Hong Kong for the paragon of a free-market economy it came to represent.

My work at the institute gave me a real appreciation of how think-tanks get things done and although being put in at the deep-end (at first being placed in charge of managing its Public Policy Journal), in hindsight this experience helped me get so much more out of the internship. It made me very aware of the sad fact that Hong Kong does seem to be starting to turn back on its legacy. Government intervention since the handover in 1997 has slowly but surely, steadily increased and is becoming more pronounced as day-to-day events increasingly reflect a government that is simply responding to populist pressure and in the process blatantly disregarding core principles of a respect for private property rights and the rule of law that lie at the heart of a free society. A major part of my work centred on researching the government's haphazard and retrospective approach to heritage conservation which helped me realize the fact that Hong Kong is underpinned by this socialist leasehold land tenure system where the government is the landlord, with

land being sold on 50-year leases and 50 per cent of the population living in public/subsidized housing. Apart from doing work for the Institute on Hong Kong's constraining land policy, I did research in other areas—namely, the introduction of a statutory minimum wage to be rolled out in May this year (which will only cause greater unemployment and hit those at the bottom hardest), the likely passage of competition policy (whose poorly drafted terms are likely only to lead to greater limitations in market participation) and the 'Mandatory Provident Fund' (which holds a percentage of residents' income hostage, with inequitable fee costs and losses in potential growth) are all just some of the more recent policies that really make one begin to question just how 'free' Hong Kong has become.

It took me some time to settle in to living in this metropolis and culture shock is inevitable for any first-time visitor. Nothing can prepare you for grassroots Hong Kong, where day and night just pulse with activity, and the tide of humanity is just so unrelenting that it pummels the senses while the narrow alleyways and markets that are dotted all over the city provide an around-the-clock melee of exotic noises, smells and colour. The food, no doubt helped me settle in so much easier, as my growing appetite for local delicacies made it so apparent why Hong Kong is regarded as the culinary capital of Asia with its truly unique fusion of eastern and western styles.

Ultimately, my experience in Hong Kong is one that I will cherish for a long time and I would like to thank both Mannkal and its supporters for not only providing students with this opportunity but in making sure that the public is educated about what the free market system brings to a society and its individuals.



Lazar in the Lion Rock office!

HERITAGE: CRUMBLING PROPERTY RIGHTS

Lazar Pravdic - Mannkal Scholar

Heritage conservation in Hong Kong is a quagmire. The situation involving Ho Tung Gardens is but the most recent example of a string of cases over the last few years where the government has intervened under the banner of “heritage conservation” to impose its will. Close analysis of these events, case-by-case, makes two things alarmingly clear.

First, current conservation policy is in direct contravention of property rights and the rule of law and, second, the policy fails to achieve its legislative objective to protect and conserve Hong Kong’s heritage, with most properties that possess true heritage characteristics simply falling through the cracks. The inadequate policy and law in place ultimately ends up destroying far more than it conserves.

The topical situation in Ho Tung represents only the tip of the iceberg and reflects best the status quo that has recently emerged. The AMO (the Antiquities & Monuments Office) exercises its autonomous declaratory powers in the name of heritage preservation to create a deadlock which puts private property owners in limbo with no easy way out. The legislation is partly to blame, as well as the actors in the AMO itself, who have for years noted these gross inadequacies.

Ho Tung Gardens

Ho Tung Gardens is a residential property located on The Peak and was built in 1927 as the private home of tycoon Sir Robert Ho Tung. The current owner of the property, the granddaughter of the late Sir Robert Ho Tung, had decided that it was time to redevelop the site



and so followed all the right, legal procedures to have her redevelopment proposals and plans, which were to amount to a HK\$3 billion investment, passed by the relevant authorities.

Her demolition plans to allow for the redevelopment

had been approved by the Buildings department in late December last year. Yet, on the 28 January, Carrie Lam, in her capacity as the Antiquities Authority, stopped everything by making use of her emergency declaratory powers under the Antiquities and Monuments Ordinance. Secretary Lam put the site under protection from any demolition or redevelopment as a “proposed monument,” effective for a year, giving the authority supposedly “much-needed” time to discuss and consider whether or not to declare the site a permanent monument.

In the meantime, the owners have had mounting tangible and intangible costs to deal with while they face uncertainty as to future of their plans and personal property. What is perhaps most appalling is the Secretary’s own public admission that her actions were necessary as a way of reaching a preservation deal with the owners, which simply acts to usurp any notion of lawful legitimacy and due process on the part of the government. Furthermore, her attempts at consolation — by mentioning that incentives of an economic nature will be extended to the owners to compensate them for the loss of their right to develop — simply fall short. How the government will “justly” compensate an owner with plans for a multi-billion dollar re-development is yet to be seen. The only real certainty is that if no mutual agreement is reached, the AMO has the right to declare the site a monument while the owner is merely left with the right to claim financial loss, which would only lead to the time-consuming process and additional costs associated with filing a writ seeking damages in the High Court.

The Basic Law expressly protects property rights while implicitly placing much trust and importance on the rule of law, central to the inherited common law system. Any society like Hong Kong’s that claims to be defending the rule of law must have laws that possess a degree of certainty, generality and equality, yet the sheer retrospective and haphazard, ad hoc approach of the government ultimately undermines the reasonable certainty of citizens in their daily activities in the most arbitrary way. Astoundingly, the declaratory tool has become one which the state uses to force landowners to succumb to its will in a costly and inefficient manner.

179 Prince Edward Road West

It only takes a moment to learn what the government advocates between private owners of deemed heritage that result in “preservation-cum-development” schemes. The particular example regarding a site at 179 Prince Edward Road West is touted throughout the “Liberal

Studies Teaching Kit" manual as illustrative of the effectiveness of heritage conservation policy in striking the "best balance between the preservation of historic buildings and respecting the private property owners' rights and interests." On the face of it, it certainly would seem to be the case that a harmonious agreement was reached that satisfied all parties' desires, making all stakeholders pleased, but it only takes a little analysis to see that this is far from the truth.

The site at 179 Prince Edward Road West was constructed in 1937 as a four-storey Tong Lau/shop house and had been confirmed to be a Grade 3 Historic Building (which signifies that the site possesses "some merit" historically by the government's definition) in 2010 by the AMO. Originally, the private owners had legitimate plans for the existing run-down, decrepit Tong Lau to be demolished to make way for the construction of a hotel. Once again, the owners were placed in deadlock by the government, facing the prospect of not being able to go ahead with plans they had previously drawn up and organized.

The agreement that was reached effectively meant that in exchange for a slight rise in the plot ratio of the property, apart from bearing the additional construction costs associated with conserving the existing building, the owner would be burdened with having to revitalize both the preserved portion on the second floor into a museum that would have to be open to the public for free as well as arrange free guided tours. The preservation-cum-development outcome that resulted from the forced negotiations reveals that the scheme, advertised as striking the perfect balance for stakeholders, is short-sighted in that it not only disrespects the rights of the property owners, but it puts onerous burdens on the owners that are made to bear all of the associated financial costs, not to mention the fact that they are usurped of a right to go ahead with what they had initially planned.

The outcomes of the negotiations reflect the only real



alternative open to private property owners who choose to enter into negotiations and reach an "agreement" which effectively means capitulating to the government's demands.

What merits heritage?

What is also noteworthy in the Prince Edward Road West case is a fact that is easily overlooked but pervades the entire inquiry—namely, whether the site even has characteristics worth preserving. This is another major part of the problem, since what constitutes "heritage" is an inherently subjective question yet we see contentious notions of "heritage," clearly difficult to define, interfering so directly with the very clear and settled notions that constitute property rights and the rule of law. The fact that the AMO Ordinance that deals with heritage does not even include a clear and comprehensive definition of "cultural heritage," "cultural significance," and "heritage value" clearly makes it impossible to create a system and framework that aims to protect and conserve heritage. Adding to this, since the task of cultural heritage conservation involves so many government and non-government bureaucratic departments, bodies and legislation, any attempt at a stable, long-term broad-based heritage conservation policy remain futile – not that there has ever been one.

Challenges in the existing paradigm

Not only is the government's present policy an innately inequitable haphazard approach to heritage conservation but it flies in the face of any real intention even to try to conserve Hong Kong's heritage. Over 1996-2000, the AMO conducted a territory-wide survey of buildings in Hong Kong that had been built before 1850 and recorded 8,800 buildings as requiring assessment of heritage status. More detailed surveys over 2002-2004 focused on 1,444 buildings out of the 8,800 yet at a meeting on 13 December 2004, the AAB (Antiquities Advisory Board) recommended that an expert panel be formed to undertake in-depth assessment of heritage value of the buildings which was in effect what the AMO had already set out to do from the onset years earlier.

Yet, even after undergoing survey upon survey of hundreds of properties over the years, resulting in the assignment of particular "gradings" to each of the buildings assessed, what we see repeatedly is that these gradings do not effectively translate to anything in the way of conservation, since it is only the conferral of "monument" status that can conserve a site and prevent it from being demolished.

Furthermore, we see that many of the surveys often result in contradicting results and only cultivate further uncertainty to private owners and the public-at-large with

the panel itself expressing reservation as to the results of their assessment that, “the evaluation of the heritage value of buildings is a continuous effort, and their heritage value can always be reassessed.” The trend we have seen over the past few years is that “monument” status often does not even correlate to a site’s grading assessment, with most decisions about monument status being made immediately before an owner has decided to commence property redevelopment/demolition (as illustrated well in Ho Tung) or just after the calls of a small group of outspoken individuals. The latter is best exemplified in a case involving King Yin Lei Mansion where, despite numerous invitations for the site to be assessed over the years, it was declared a monument following the protests of a conservancy group which called for King Yin Lei to be saved despite the site never being assessed or considered worthy of assessment in the past. It is also pertinent to note that the historical significance of Ho Tung gardens led the AMO to assign the site with a Grade One rating (which is meant to signify that a site possesses “outstanding merit”) after years of reviews and assessments stretching back to 1980.

Despite this, as counterintuitive as it may seem, these grading assignments achieved nothing in the way of protecting a site’s heritage value, which speaks directly to the ineffectiveness of the underlying framework. It is dumbfounding how it can be the case that a site that had been assessed over many years, and was deemed as possessing “significant heritage value” can only be acted upon by the government in a retrospective, last-minute

manner after the owners who have held the property over the entire time have faced continued uncertainty and costly engagements. If a grading framework to ascertain a site’s heritage value is provided, why not stick to it, and let that provide guidance as to whether a site is worthy of attaining monument status?

There is clearly a lack of clarity with what is deemed to be of heritage status despite the government’s attempt to keep up appearances of a standard and systemic framework with a grading system that is innately flawed. All of these developments force one to question whether government even has heritage conservation on its agenda or whether, in the words of the Secretary for Development, the government is simply taking, “no action if the enemy makes no move.” The government’s budget, released this month, highlights a promise to earmark an additional \$500 million to the area of heritage conservation without making any major amendments to current policy, but rather seeking to continue the existing legal and administrative framework and employing the innately flawed “diversified approach” it has been using for decades. If Hong Kong really wants to be the “world city” it claims to be, why not start with an overhaul of current policy and the introduction and implementation of a practical, long-term legal and administrative framework—one that does its job but also manages to strike the balance between respect for property rights, the rule of law and heritage conservation.

This is an edited version of an article printed in Lion Rock’s *Best Practice Magazine*.

HR Nicholls Society

The HR Nicholls Society aims to promote discussion about the operation of industrial relations in Australia, including the system of determining wages and other conditions of employment. The 31st annual conference, *How Fair is Fair Work Australia?*, was held in Melbourne on 1-2 April. Gemma Thomson (Notre Dame), Hanna Forrest (Notre Dame) and Sinead Weir (Curtin) were all sponsored by Mannkal to attend this conference.

The members of the H R Nicholls Society genuinely loved having us participate in the conference and dinners, firstly because we had come over from WA but also because we were a lot younger than most of the delegates. I think they found it invigorating that young people like us had been given the opportunity to delve further into Industrial Relations. We even got to sit on the VIP table at dinner!

—Gemma Thomson



(L-R) Sinead Weir, Gemma Thomson, Hon Peter Reith, Hanna Forrest, Kyle Kutasi.

INDUSTRIAL RELATIONS REFORM IN WESTERN AUSTRALIA: AN OPPORTUNITY MISSED

Gemma Thomson—Mannkal Scholar reports:

Mr Kyle Kutasi is the Secretary & General Manager of the National Electrical & Communications Association (NECA) of Western Australia and is also an active board member of the HR Nicholls Society. Mr Kutasi's conference paper was centred on the findings and recommendations of the Amendola Report. In early 2009, the State Government, under the direction of Liberal Premier Colin Barnett, commissioned Stephen Amendola, a partner of the law firm Blake Dawson, to conduct a review into the Western Australian State Industrial Relations (IR) system. Mr Amendola was paid \$850,000 for his research.

Kutasi indicated that upon submission of Amendola's report on 30 October 2009, 193 recommendations were put forward to the State Government. The release date of the report, 6 December 2010, was over two years after the election of the Barnett Government in 2008. Given his background in entrepreneurship and experience as a former regional small business owner, Kutasi explained how Troy Buswell, who held the portfolios of Treasurer and Minister for Commerce at the time, was aware that "small business people in WA were hurting from Labor's changes (to State IR) and were expecting the Liberals to do something about it." Mr Buswell, who was no longer a Minister at the time of the report's release, was said to have been fundamental in contributing to the discussion surrounding the State IR Act in late 2008. His portfolio was passed on to Bill Marmion and then Simon O'Brien; neither of whom appeared to share Mr Buswell's "reformist zeal ... and accordingly, the Amendola Report died a quiet and slow death." Kutasi emphasised how disappointing this was as the momentum for change had been lost due to the portfolio reshuffle and a "naturally more risk-adverse Minister". That it was a lost opportunity was evident given that the report contained "many

excellent recommendations" and consumed some \$850,000 of State Government resources.

When exploring the Government's response to the release of the Amendola Report, Kutasi explained how few of the 193 recommendations were acted upon. The Government proposed to "consider broadening the power of the Commission to award costs against parties for vexatious or frivolous conduct" whilst also agreeing to abolish the Coal Industry Tribunal. Kutasi described the Liberal Government's response to the Amendola Report as "meek" and submitted his views on why they took that position:

the simple truth is the Barnett Government fears a fight with the unions if they dare to touch Industrial Relations – they have nightmarish visions of 'Your Rights At Work' posters lining telegraph poles. A strategic decision has been taken this isn't a priority issue and as such, they have tried to bury the Amendola Report in its entirety."

The fundamental principle of Kutasi's argument was that the Western Australian people had elected the Liberal Party to power on the premise that they would advocate traditional Liberal values, yet notes that the Barnett Government, in terms of Industrial Relations, has failed to provide leadership because Barnett appears only to be "interested in sating the appetites of the big miners" and tackling anti-social behaviour on weekends. Indeed, Kutasi argued that the Barnett Government's interests in IR were captured in the contrast between small and big business. "Small business comprises 88% of all enterprises in the State, yet Woodside and Rio Tinto are sexy; Betty's Bakery in Balga is not." Kutasi also noted that small business in WA are in desperate need of help and leadership and that their cries are falling on deaf ears. Consequently, his final recommendation was that the 193 recommendations of the Amendola Report be implemented "in full and without further delay."



(L-R) Sinead Weir, Gemma Thomson, Hanna Forrest, Adam Bisits
(President of the H.R Nicholls Society)

The Year Ahead

Mannkal held 'The Year Ahead' annual cocktail party in March to welcome back our two interns for 2011—Lazar Pravdic and Felicity Karageorge. The Year Ahead gave Mannkal supporters and scholars an opportunity to discuss the success of 2010 and the plan for 2011.



(L-R) Gina Rinehart, Lazar Pravdic, Felicity Karageorge.



(L-R) Sarah Pandal, Judy Carroll, Felicity Karageorge, Ron Manners, Emma Crisp (Editor of *Mannkal's Musings*).



(L-R) Ron Manners, Gavin Bunning, Peter Sansom, Nada Iancov, Peter Iancov.



(L-R) Duncan Dias, Greg Moore, Yhana Duffy.

“For myself, the takeaway learning was Hoover’s quote ‘Blessed are the young, for they shall inherit the national debt’. It is so true and worth spelling it out to all those who on one side claim to be very interested in their children’s future, whilst undermining it at the same time by indebting them for many years to come.”

—*Peter Iancov, CEO Doric Group*



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To see more photos from 'The Year Ahead', or any of our other events throughout the year, check out the Mannkal Facebook page at:

www.facebook.com/mannkal

Mannkal People

ADVENTURES IN THE BIG APPLE: MANNKAL'S MAN IN NEW YORK

Mannkal Research Fellow, Luke McGrath, moved to New York City in September 2010. He shares with us some of his stories about what he's been getting up to.

New York is regarded as one of the great cities of the world for good reason. No matter what your passion or interest, you're guaranteed to find it here. Like eating fine cuisine from some of the world's top chefs? NY's got it covered. Enjoy going to underground clubs that play only the rarest and most obscure electronic dance music? NY dishes that up, every weekend. Into collecting Bulgarian hunting knives manufactured between 1971-1972? Well guess what, you're in luck, because there's an outdoor market the size of a football stadium dedicated to just that. Okay, you got me on the last one, I made that up. But you get the idea—there's a lot to see and do in NY no matter how you define fun.

Now for me, one of my big interests is economics and libertarian political philosophy. If you're reading this issue of *Mannkal's Musings* right now, I trust you probably have a similar inclination. I thought, then, that I'd share with you some stories about what I've been up to as they relate to this subject.

Before I get onto this, however, I'd first like to make a quick confession about my gripes with formal tertiary education. There are three of them. One: You often have to take classes that you're not really interested in. Two: You have to take tests and do exams. Three: You have to pay for this whole experience, much of which, I've been told, in fact violates at least a dozen articles of the UN's Universal Declaration of Human Rights.

"But how do you expect to go to uni without going through all this?" you ask. "It's just part and parcel of going to uni."

Not so.

I've been known to take advantage of the educational opportunities that exist at universities all the while avoiding all that other nonsense by simply "auditing" classes that interest me ("free-loading," for those so inclined). What better way to learn than sitting in on a class you're really interested in—for free—and not having the pressure of assessments!

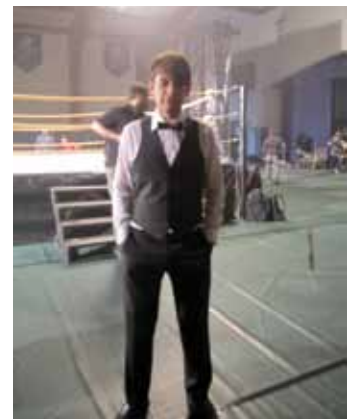
Fortunately for me Prof. Mario Rizzo, a great economist who teaches at NYU, was kind enough to allow me to sit in on two of his classes. One was on the history of economic thought; the other was on economics and

ethics. It was a real privilege to take these classes, not just because I was already familiar with Dr. Rizzo and respected his scholarship, but because the required readings throughout the semesters included such people as F.A. Hayek, Henry Hazlitt, Larry White and Steven Kates (who, in fact, has spoken at several Mannkal events now). I was never "forced" to read people like that when I was studying economics at university in Perth!

Every Monday Prof. Rizzo also holds a colloquium at NYU on "Market Institutions and Economic Processes." He was kind enough to allow me to sit in on these too, and undoubtedly, these were even more enjoyable than the classes I took. This is because each week a scholar would present their latest paper that they're working on, before opening it up for criticisms and critiques from the dozen or so other professors who attend each week. The attendees and those who present papers are some of the most noted scholars working in the Austrian-school tradition, so it's been extremely intellectually stimulating (and a great deal of fun!) to be present for these sessions. There are too many people to name in full, but some of those

who have presented papers include: Daniel Klein, Chris Coyne, Richard Epstein, Gerald P. O'Driscoll, Fred-eric Sautet, George Selgin, Daniel D'Amico, Ronald Hamowy and Israel Kirzner. Not to mention those who are there each week, people like David Harper, Sandy Ikeda, Joe Salerno, Ed Stringham, et al. I'll save you the time by not going into the topics of discussion, but the papers presented have been on everything from private policing in San Francisco to the economic analysis of the 'no sex before marriage' norm!

Last year I went to a Students for Liberty (SFL) conference that was held at Columbia University, which



Luke dressed as a photographer for the Keynes vs Hayek rap video.

was a terrific event. A good 180-or-so very smart and enthusiastic young people were there to hear from such people as David Boaz, the Executive Vice-President of the Cato Institute, and Michael Strong, of FLOW Idealism, who spoke on how entrepreneurialism can change the world for the better by lifting people out of poverty and empowering those whose voices are seldom heard. Though SFL was only formed in 2008, it's already making great strides at spreading the ideas of liberty on campuses all throughout America.

One of the more unusual things I have done here was participating as an extra in the second instalment of the Keynes/Hayek rap video entitled "Fight of the Century: Keynes vs. Hayek Round Two". A few months ago, I—along with about one hundred other New York libertarians—boarded one of those iconic yellow school buses and journeyed out to New Jersey for a day of filming. It was exciting to be a part of such a professional production and, fortuitously on the day, I was chosen to be a more 'special' extra who got a bit more screen time than many of my friends. (Keep an eye out for the

photographer on the right in the congressional hearing scenes!) (www.youtube.com/watch?v=GTQnarzmTOc)

While in America I've also interviewed a number of people for Radio Free Market. This show is broadcast in many towns and cities throughout the US, but they're also archived online. I've spoken to Dr. Roderick Long on "Ten Objections to Libertarian Anarchism" and Dr. David Zetland on why the privatisation of water and water infrastructure could be a tremendous boon, not just for those of us in the West, but more importantly for the poorest of the poor, millions of whom today now die needless deaths. Though my radio skills may leave much to be desired, I've still had fun doing the interviews!

Well I think that about wraps it up. Though I've got some more good stories, I think I'll leave it here lest I give the impression that all I do in New York are things related to economics and libertarianism! I can assure you that's not the case, though, perhaps fortunately, I don't have the photos to prove it!

Thoughts from Paul McCarthy in the UK—Mannkal Advisory Board Member

I saw the latest version of "Focus"—what an amazing coup to have Vaclav Klaus speak! I only wish I could be there to see him myself. His views have been reported quite widely here.

My reading of the Australian mood is that people aren't sold on man-made climate change and are even less convinced about Gillard's tax/trading scheme and have stopped listening to Labor—is that a fair take on it? Here in England the Tories have proven themselves to be much like Labour—there is a big government focus with daily doses of spin, political correctness remains

ascendant and many key Ministers, including the PM, are unaccomplished outside the field of politics. Government spending is rising, albeit at a slower rate than under Labour.

I've been looking into a few libertarian groups in the UK. I actually recently had dinner with Erping Zhang, one of the main spokesmen for the Falun Gong. He had some fascinating insights—he sees China under the CCP as being fatally flawed, something of a house of cards economically, politically and socially.

And Finally...

The mammoth task of cataloguing the Mannkal library was completed at the end of May. To browse through the 1,123 titles, please check out www.mannkal.org/library.php. Although books are not available for loan, we encourage anyone to come in to the Mannkal offices for a read. Have a look at one of the shelves on our front cover.

Sarah Pental joined the Mannkal team in January as a research assistant. She is studying for a Bachelor of Arts at Notre Dame University in Fremantle. Welcome Sarah!

After releasing a twin-pack of Ron's most recent books, *Never a Dull Moment* and *Heroic Misadventures*, we experienced an inundation of orders. Here we are trying to get 100 of these twin-packs sent out!



(L-R) Sarah Pental, Emma Crisp, Ron Manners.

Mannkal 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 responsible resourcefulness of individuals.

Mannkal finances and organises:

Events that allow individuals to exchange ideas defending free markets.

Seminars and student scholarships to promote the greater understanding of the concepts that underpin free societies.

Policy papers on relevant topics pertaining to Western Australia.

An **alternative book store** for economic and Australian history books.



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