



Australian Adam Smith Club (Melbourne)

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

Liberty means responsibility. That is why most men dread it.
George Bernard Shaw

Julian Morris on Rethinking Risk and Liability: A Move Back to Caveat Emptor?

**The Adam Smith Club will host a dinner meeting on Thursday the 7th of March 2002,
at Ferretti's Café, Italian Bar & Ristorante, 138 Barkers Road, Hawthorn.**

Julian Morris is Director of International Policy Network, London, Research Fellow at the Institute of Economic Affairs, London, and Visiting Professor at the University of Buckingham. He holds degrees in economics and law and is the author or editor of many papers and books, including "Rethinking Risk and the Precautionary Principle" (Butterworth-Heinemann, 2000). His articles and book reviews have appeared in The Financial Times, The Sunday Times, The Wall Street Journal Europe, Economic Times, The Daily Telegraph, Nature, and various other newspapers and journals. Mr Morris is also a regular commentator on radio and television.

Over the past half century or so, judges and legislators have increasingly placed liability for harm on the shoulders of manufacturers and others with 'deep pockets'. The presumption was that in so doing, consumers were being protected. However, for most goods, including medicine, the risk of liability is now factored into the cost of the product, so we all end up paying a little bit more to cover the cost of big payouts to the lucky few in the liability jackpot. More perniciously, the incentive to litigate in order to capture some of the rent in this liability commons has created a compensation culture in which people feign illness in order to obtain money. Meanwhile, the increased cost of products has adversely affected the very poorest in society; putting goods such as private medical care beyond their reach. A more bizarre side effect has been the rise in psychosomatic illness -- people literally believing themselves to be ill because of one or other supposedly "risky" endeavours in which they have engaged. Interest groups have taken advantage of this heightened sense of fear by making all manner of outrageous claims regarding the risks of all manner of human activities. This 'risk society' and the liability regime upon which it is based is unhealthy for everyone. As an alternative, the speaker proposes a move back to caveat emptor, reserving liability for negligence only to the most unambiguous cases of egregious breach of duty. He will explain the consequences of such an alternative system, including ways of overcoming some of the problems that the liability system was intended to address.

Attendance is open to both members and non-members. Those desiring to attend should complete the attached slip and return it to the Club no later than Tuesday the 5th of March 2002. Tickets will not be sent. Those attending should arrive at 6.30pm for dinner at 7.00pm. The cost is \$35.00 per head for members and \$40.00 per head for non-members (PTO for explanation of arrangements).

**Enquiries to Ms Regina Bron, tel 9859 8277 (AH)
or Dr Tom Jellinek, tel 9706 7400 (BH)**



detach and return

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

Please reserve place(s) at \$35.00 dollars per member andplace(s) at \$40.00 per non-member for the March 7th meeting of the Australian Adam Smith Club. I enclose the amount of \$..... in payment for the same.

NAME (please print):

ADDRESS:

SIGNATURE: TEL:

LAISSEZ FAIRE ON THE WEB

This newsletter has a new address on the web: <http://www.economic-justice.org/asmith.htm>. The Institute for Economic Justice has been created by David Sharp a former president (and current committee member) and Timothy Warner the current Treasurer of the Club. As stated on the web site, 'The Institute has been founded to assist those who have been subject to economic injustice, and to increase both public and professional awareness of remedies available under the Law.'

A BRIGHT FUTURE

It was Alexander the Great who despaired as a youth of ever having any world left to conquer. His father King Philip of Macedon it seemed to him at the time had conquered it all. Francis Fukayama has now informed us in a widely read and appreciated essay that history is at an end and that what was to be achieved, viz. the ultimate triumph of capitalist democracy, has been achieved. Alexander of course was wrong. Within a few years he was conquering parts of a world of which his father could probably barely have conceived. No doubt Francis Fukayama is also wrong and history will be there for those who make it.

Contemplating Australia in the first decade of the 21st century one can only be struck by the opportunities presenting themselves and the goals which exist for those who, voluntarily or not, become involved in what Thomas Sowell has called a conflict of visions. It is possible to postulate some of the areas in which the struggle is likely to eventuate.

One such area is taxation. Today working half the year just to pay one's taxes seems normal and those who aspire to wealth or even just financial independence or security are commonly reduced to despair or emigration. One tax in particular, the income tax, makes slaves of us all. But what if the overall tax burden could be reduced to say 15% as in Hong Kong, and/or the income tax eliminated?

Another area of competing visions is that of law and

legislation. Never before has the maxim "The more the laws the less the law" been more apt. We are buried each year in an avalanche of new legislation so that even judges and lawyers are unable to grapple with it all. At the same time the precepts of legal reasoning inherent in the Common Law are blithely set aside by a growing number of judges seemingly more concerned with popular relevance than legal certainty. But what if 85% of existing legislation were repealed and there was a resurrection of common or classical law adjudicated by judges appointed for their legal learning and experience in the practice of law?

A third area where competition is likely in the new century is that of economics. Despite the overwhelming evidence of its bankruptcy, Keynesian macroeconomics continues as the dominant economic orthodoxy beloved by government, academia big business and big unions alike for which by its very nature it has special attractions. But what if the dominant orthodoxy is overwhelmed by its own failure?

Examples of areas such as the above abound. One more must suffice. Political correctness is rampant. Its very name says it all--not what is correct but what a dominant political faction has determined to be correct and which therefore is above not only challenge but open discussion. But what if a hundred flowers could blossom and a hundred schools of thought really contend? *DBS*

MALAYSIA LEADS THE WAY

The Malaysian Government has started moves to have all Internet sites hosted or controlled from Malaysia registered and subject to suitable controls - to ensure untruths and misinformation do not cause public distress.

The move is likely to be watched with great interest by western governments eager to start similar schemes. A number of governments -

including Australia - have enacted loosely worded Internet regulations to combat pornography and national security issues. The single greatest factor in restraining thought police has been difficulties in imposing a stricter order. The structure of the World Wide Web and its extra territorial nature has slowed authorities in their search for a more orderly existence.

They would either look stupid or oppressive.

Malaysia has effectively offered itself as a test bed for the mechanisms that others would like to try. The leadership of Malaysia has no interest in whether they look silly; their overarching desire is elimination of informed dissent. *TW*

VENUE ARRANGEMENTS

In order to control costs the Club is attempting a number of new formats for our meetings. Drink is not included in the price but can be purchased at the venue. BYO wine only. A function room has been reserved for the dinner meeting. We hope these arrangements do not cause inconvenience and we welcome your feedback.