

# Australian Adam Smith Club (Melbourne)

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

The man who aims to speak as books enable, as synods use, as the fashion guides, and as interest commands, babbles. Let him hush..  
*R. W. Emerson, 1838*

## Andrew Bolt

on

### *Christians 0, Pagans 1*

### *Where are the skeptics now that we need them?*

**The Adam Smith Club will host a dinner meeting on Tuesday the 25<sup>th</sup> of September 2001, at The Curry Club, 396 Bridge Road, Richmond.**

Andrew Bolt describes himself in the following words:

I'm a columnist for the *Herald Sun* and social commentator for 3AW's Breakfast Show. Contrary to what you may have read (by others) I am a moderate whose only fault is impatience, and the rest is explained by my taste for Edmund Burke, George Orwell and Matthew Arnold. I joined *The Age* as a cadet and worked for the Labor party - not always simultaneously. I've also worked for an opera company before joining the Herald and Weekly Times in 1988. I was News Ltd's Asia correspondent during the handover of Hong Kong, and a *Herald Sun* columnist since 1998. I am married with three children and a picket fence. Given the topic, I should declare I am an agnostic.

In his talk, Andrew will puncture unthinking conformity in modern debate.

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 Friday the 21<sup>st</sup> of September 2001. 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 and .....place(s) at \$40.00 per non-member for the September 25<sup>th</sup> 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.'

## ABRAHAM LINCOLN: EMANCIPATOR OR TYRANT

An interesting issue has developed and is currently being argued in libertarian and conservative circles in America; was Abraham Lincoln on balance a friend or foe of liberty? Leading and respected scholars have addressed the issue from both sides. No conclusion has been reached – it probably never will—but the revisionists, some of who go so far as to refer to Lincoln as a tyrant, have scored some telling points.

Although in the American context, the legal right in 1861 for a state to secede from the United States of America seemed clear enough, Lincoln refused to permit the Southern States peacefully to depart. He manoeuvred the South into firing the first shot by sending a warship to Fort Sumpter, thus beginning a war that killed more than 620,000 Americans and maimed and wounded many more. Far from defending a Constitution he had sworn to uphold, he was guilty of numerous breaches of it, virtually treating himself as President as being above constitutional constraint. He suspended Habeas Corpus by Presidential decree, arrested and imprisoned many thousands of Americans who questioned the wisdom or legality of his actions, and closed down hundreds of newspapers. When the Chief Justice of the U.S. ruled against him he ignored the ruling and wrote out a warrant for his arrest, which in the event was not executed.

When Maryland seemed about to secede he invaded it with Federal troops and arrested the Mayor of Baltimore and much of the legislature. At the same time he sanctioned the secession of the western counties of Virginia which formed the new state of West Virginia.

Perhaps Lincoln's most enduring claim to fame is his contribution to American race relations. Yet even here his own pronouncements make clear that he favoured an America denuded of its black population who would it was hoped settle in colonies in Central America and Africa. But most important of all, more than any other President Lincoln destroyed the American constitutional balance which had existed until then, establishing an imperial Presidency and setting the course of the ever-expanding size and power of the executive over the legislature and the dominance of Washington over the states.

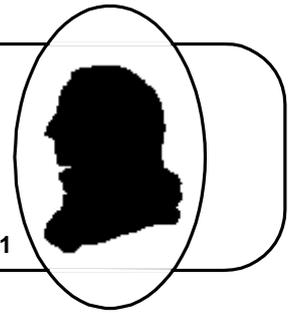
What then is the effect of the debate. It seems clear that it is more than just an historical exercise and that the arguments are of significance, not just in America. It is particularly so for federations such as Canada and Australia. A critical reassessment of Lincoln is probably a necessary part of a critical reassessment of central and state government relations in federations generally, and indicative of a welcome swing back towards state-based power. *DBS*

## VENUE ARRANGEMENTS

In order to control costs the Club is attempting a number of new formats for our meetings. For the Curry Club, drink is not included in the price. You may bring your own drinks (no corkage will be charged) or purchase from the restaurant which is fully licensed. An upstairs room has been reserved for the dinner meeting. We hope these arrangements do not cause inconvenience and we welcome your feedback.

# Laissez Faire

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## PROPERTY RIGHTS AND BIG BROTHER

A massive increase in the number of security cameras now operating throughout the length and breadth of Britain has sparked fears there that the era of "Big Brother" is upon that land. Most High Streets, shopping centres, sporting grounds, parks and other frequently populated public places are apparently now equipped with strategically located cameras, silently observing and recording all those who appear before their suitably-equipped wide angle lenses.

The wonders of modern technology now ensure that classification and identification of anyone caught on camera occurs almost instantaneously. Even in a sea of faces such as can occur with a popular occasion such as a parade or major sports event, the technology now exists for the camera to locate, identify or track a single individual from among the crowd.

It is estimated that a typical British urban dweller is caught on camera seven to eight times a day. And although the cameras concerned are sited to cover public places it requires no great imagination to conclude that private places, given the extant technology, will not be able to keep them out for long. Right now it seems reasonable to assume that we are or can be under

surveillance at any time, wherever we may be. Such a situation applies equally to Australia.

In Britain the realisation of what is occurring has led to calls from Civil Libertarians that there be a massive increase in government regulations in order to ensure that there be government control of such activities, either by a system of strict licensing of those permitted to use or access such equipment or by confining its use and access to government itself.

The reality is, of course, that such technology, in its ability to fight crime, has an obvious good side. In any event its existence for good or evil cannot be denied. Once the technology has been created it is there. The genie cannot be put back into the bottle. And given the nature of technology once the basic idea is conceived, it can only be expected to grow in power and sophistication.

While one can share the fear and objection to Big Brother, it is ironic that the very measures that the so-called Civil Libertarians are demanding, ostensibly to preclude it, are the very means that will ensure that it occurs. Regulation, control and monopoly of use are the very essence of Big Brother. Without such measures it cannot exist.

The only real defence against intrusive or oppressive technology is more technology, designed to protect or guard against it. Sometimes such measures can be disarmingly simple. Thus a curved piece of glass can be sufficient to protect a number plate from a red-light camera; a radar detector can warn of the presence of a radar gun. The typical government response is to ban such devices, often making their possession or use a more heinous offence than the one, the detection of which they are ostensibly being used to prevent.

The deprivation of our property rights and of our right to self protection, inherent in the banning of the possession or use of technology, are essential prerequisites to the advent of Big Brother. Ultimately the best, and probably only defence against government misuse of technology is its free availability to all. In particular the freedom to all to devise, own and use the appropriate counter-measures.

Civil Libertarians advocating strict government controls or monopolization of the use of surveillance technology are apt to present themselves as the friends of Liberty. As they say, with friends like these Liberty needs no enemies. *DBS*

## PREPARE FOR DOMESDAY

### Kim the Unready in Charge?

The news that Labor wishes to construct a 'cadastre' after the next election should send shivers down every tax payer's spine. The most notable 'cadastre' in history was the Domesday Book of William the Conqueror. He called for a listing of all the property of his new kingdom so that he could more efficiently tax the people and distribute the loot to his followers.

All potential Hereward the Wakes and other non-Normans should hide their geese and pigs, and think of whether those hides of land should be better turned into gold coin if Kim the Unready wins at the end of the year.

### The Government's Money.

It was instructive to read the papers recently in the wake of the Ashton By-Election. All the usual suspects rounded upon the question of the Liberal tactic of offering to return excess taxes to the taxpayers. But the most depressing thing was that I cannot recall a single comment in defence to the effect that it was the taxpayer's money.

There was much talk of priorities, electoral bribes and the economic effects of tax cuts. But the moral position – that taxes are an imposition grudgingly paid to achieve certain limited ends, and that any sums in excess of what is required belong to the taxpayer, was not raised by any political figure. *TW*

# FICTITIOUS BIDDING AND FREE MARKETS

Most people who have had any acquaintance with auctions have come across the term “vendor bid”. Since Melbourne is reputedly the auction capital of the world, with large numbers of houses and other property sold weekly by auction this probably includes many if not most of Melbourne’s adult population. To a greater or lesser extent they understand that a vendor bid is a method whereby the vendor during the course of an auction makes known to the assembled potential buyers that the figure then indicated will not suffice at that stage of the auction to buy the property.

Provided that the vendor in announcing the auction has retained the right to withdraw the property from sale after the auction has commenced or that any sale is declared to be subject to an undisclosed reserve price being reached, there is nothing inherently wrong in permitting the vendor to give such an indication on one or more occasions during the course of the auction. Such a pronouncement can only facilitate the market process since it assists potential buyers to determine realistically what they will need to bid if they are to achieve the goal of purchasing from the vendor whatever it is that is being offered for sale.

Vendor bid as a term is itself somewhat misleading since the primary meaning of the word bid is to offer to buy. One thing the vendor is not doing at that stage is offering to buy. He has no intention, for instance, of paying stamp duty on any sale to himself. Rather the word bid in this instance is used in another somewhat old-fashioned sense of giving an indication or direction as in “I bid you go” or “Please do as I bid”. What the vendor is doing with a vendor bid is bidding [in the sense of indicating or directing] would-be purchasers to bid [in the sense of offering to buy] at a greater figure. Although a potential thereby exists for confusion, the term itself is an accepted one and the English language does not readily provide one less confusing which is at the same time as catchy and convenient. Essentially, provided that the indication from the vendor is clearly identified as coming from the vendor there is no deception of the market. Its function is to inform and it is perfectly proper.

Contrast the function of a proper vendor bid, of informing the market, with the function of a vendor bid, which is not revealed as such but is rather disguised as though coming from a genuine potential purchaser. The primary function of the latter is not to inform the market but to deceive it. Such bids are frequently described as bogus or fictitious. They typically come in two forms, sometimes referred to firstly as “pulling a bid” and secondly as “dummy bidding”.

In pulling a bid the auctioneer will simply call a bid, perhaps gesturing towards a part of the crowd as though someone has actually indicated a bid to him. In reality there will be no one there although it is not intended that the other members of the crowd will know this. The alternative method is for there actually to be someone in the crowd, the dummy bidder, who will make a bid, but one which the vendor and the auctioneer understand is not a genuine offer to purchase at that price. Again the intention is that other members of the crowd will not know this.

Both methods have their strong points; pulling a bid gives the auctioneer more control and he does not have to worry about the dummy missing his cue to stop or start bidding or otherwise getting carried away with exuberance to the point where he outbids a genuine buyer. On the other hand, a dummy bid is seemingly more real, since genuine potential purchasers then present can actually see and hear the bid being made. Some auctioneers who use dummy bidders have become well known amongst auction aficionados for the various methods of signalling they employ to tell the dummy bidders when to start and stop bidding.

The effect of bogus or fictitious bids is to deceive the market. It is sometimes argued that no harm is done since the buyer does not pay any more than what he was willing to pay. But that is to miss the purpose and extent of the deception. It is not just to enhance the price but rather to exaggerate the depth or strength of the market. Potential bidders are reassured to know that there are other interested parties out there wanting to buy the property. People who might decide on the spot to bid or who decide to exceed their own preset limit will be reassured if they think the market is strong, reasoning that they can always extricate themselves from their position if they have to resell. If the other bidders do not exist or are merely dummies, they are likely to be sadly disillusioned.

There are a number of misconceptions about bogus or fictitious bidding at auctions which are sometimes put forward to justify their use. One such misconception is that it is alright to use them before the reserve is reached. The fact is of course that at many auctions there is no real reserve; the vendor has put the property with the auctioneer with instructions to get the best price he can. Even with a set reserve, faced with the prospect of not selling at all, many vendors on the day will sell at a price much below what they might previously have indicated they wanted. Even if the property is passed in and the auctioneer deals with the highest bidder that person’s perception of the market has still been affected by any fictitious bids.

Alternatively the vendor might have unrealistic views of the value of his property. Perhaps buoyed by the auctioneer himself in an endeavour to obtain the business, the vendor has placed too high a reserve on it. The auctioneer requires a sale to earn his commission and is thus required, perhaps by fictitious bidding, to get the price up to where the vendor will actually contemplate selling. One deception thus buttresses the other.

It is sometimes said that fictitious vendor bidding is the same as vendor bluffing. Everybody, it is said, knows that vendors frequently ask for more than they would be prepared to sell. Nobody seriously objects to such a practice. Again however this argument misses the point. Potential purchasers, who are considering possible resale, are not concerned with what the vendor thinks is the value; what they want to know is what other potential purchasers are prepared to pay and how many of them there are. Nor is it pertinent to point out that everyone knows that fictitious bidding can occur at an auction. To be conscious that a risk exists of something occurring is not the same as saying that one condones it happening or waives a right to complain if it does. For instance one knows that in accepting payment by a cheque there is always a risk that there might be no funds in the account.

Another misconception is that, because the contract of sale prepared for the auction contains the purported rules of the auction and they include, as they often do, a proviso that the vendor reserves the right to bid at the auction, either personally, through the auctioneer or by an agent, that this thereby authorises bogus or fictitious bidding. The essence, however, of a genuine vendor bid is that it can be seen to come from the vendor, whether acting personally or through another person. If however the purpose and effect of any bid by or on behalf of a vendor is to disguise it so as to cause potential purchasers to think that it is a genuine bid from a would-be purchaser then it would be deceitful and depending on the circumstances, could be ruled by a court to be fraudulent. To say that such a contractual provision can reserve the right of a vendor to make a fraudulent bid makes as much sense as it would if for instance the vendor purported to reserve, in similar fashion, the right to assault anyone who wore clothes at the auction which displeased him. At the very least a court, if it ruled the fictitious bid to be fraudulent, would properly refuse to enforce or apply such a provision.

Finally it is often argued that fictitious or bogus vendor bidding is by tradition accepted as approved by the law. Such assertion is dubious at best since there is no shortage of cases over the centuries where judges have stated to the contrary including a leading one in the Victorian Supreme Court decided in 1990. Even if it were so, tradition is hardly an adequate basis for approving such a deceitful and harmful practice.

*DBS*