



# ON TARGET

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*The price of Freedom is eternal vigilance —*

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**THOUGHT FOR THE WEEK:** "When Money talks, Truth is silent..."

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**THE REVOLUTIONARY MABO DECISION** by David Thompson:

The real impact of the High Court's revolutionary decision that native title could exist if it had not been extinguished by the Crown is only now being widely realised. The Mabo decision has the effect of changing the entire basis for Australian sovereignty, and goes to the heart of the question "Who owns Australia"? Is Australian sovereignty vested in the Australian Crown, or do we occupy Australia on Aboriginal sufferance? The Mabo decision, extinguishing the previous doctrine of terra nullius (an internationally recognised condition in the 19th century, which meant that the continent was not occupied by a 'nation') has effectively "changed the grand rules" of the very basis of Australian life.

The plight in which the States now find themselves concerning the Mabo decision goes back to the changes to the Constitution in 1967, in which the Commonwealth was given the power to legislate on behalf of Aboriginal people. This power may now be used, following the changing of the "ground rules", to compel the States to either hand over vast tracts of land, or pay huge compensation settlements to aborigines. As W.A. Premier Richard Court points out, W.A. and Queensland will be most affected, as there are large vacant areas. He noted that the development of States like Victoria and N.S.W. took place under one set of rules, but the development of W.A. and Queensland is now expected to take place under a different set of rules, in which aborigines apparently now have enhanced "land rights". It should be noted that it is up to the State Governments to organise compensation.

**REVOLUTIONARIES PRESS FORWARD:** Perhaps the most significant land claim resulting from the Mabo decision is that of the "Wiradjuri people" - something like one third of N.S.W. This claim has been lodged on behalf of these people by the activist Paul Coe, chairman

of the N.S.W. Aboriginal Legal Service. N.S.W. farmers have, understandably, reacted sharply to both the claim, and the language in which it was couched. Coe said, "I would advise that farming community to start negotiating with the Wiradjuri people as soon as possible. If they still want to live on our land ... if they want the consent of the Wiradjuri people to farm our land, well, they've got to start talking about some sort of royalties."

If there was anything calculated to enrage farmers from the Lachlan to the Murrumbidgee Rivers, on top of desperate financial and seasonal circumstances, it is the arrogant demands of the revolutionary Paul Coe. As Professor Geoffrey Blainey pointed out, the High Court has laid the basis of the establishment of two separate Australias. It is not inconceivable that unless the Court's decision is somehow modified that some sort of armed conflict could erupt.

**THE ROLE OF THE HIGH COURT:** The fact that such far-reaching decisions of policy can be made by an unelected, unaccountable body, such as the High Court, is in itself revolutionary. The proper role of the court is to rule on matters concerning the Constitution. That is, to interpret the Constitution. But in matters like the Mabo decision, the Court actually operates like another arm of government - making decisions on policy. The Judge who did most of the damage in the Mabo case, Justice Brennan, justified the decision to establish a kind of native title not previously existing on the grounds that "the expectations of the international community accord in this respect with the contemporary values of the Australian people". Justice Brennan did not explain how he had tested the contemporary values of the Australian people, or of what the mythical 'international community' comprised.

However, it should not be forgotten that there was also a minority judgement on the Mabo case, produced by Justice Daryl Dawson. The concluding sentence of his judgement is very significant: "Accordingly, if traditional land rights (or at least rights akin to them) are to be afforded to the inhabitants of the Murray Islands, the responsibility, both legal and moral, lies with the legislature and not with the courts."

Justice Dawson is quite right, and this leaves both the parliament and the Australian people with a problem: what to do with a High Court that over-steps its proper role? Four judges can, and do, wield more power than the entire Parliament. They are not elected, but appointed by the Prime Minister, and in order to maintain the integrity of the court system, answer to no-one except the law itself. If people like the late Lionel Murphy can be appointed to the High Court, then a review of the appointment of judges and role of the Court is urgent.

**REPUBLICANS VS THE CONSTITUTION:** As we have constantly predicted, the republican argument becomes more difficult and divided when they must produce a firm proposal for constitutional change. Republicans know this is a big challenge. They know dramatic constitutional change

has little chance of success. Therefore they adopt what is known as the "minimalist position" - very minor changes. Now the thorny issues of the role of the Senate has been raised. Should the Senate have the right to reject a money bill, as it did in 1975, which led to a dead-lock between the Houses of Parliament, and Whitlam's sacking?

Keating's Chairman of the Republican Advisory Committee, Malcolm Turnbull, has tentatively produced an answer. Remove the Senate's authority to defeat money bills. But is this a minimalist position? Certainly not! Turnbull's alternative: If the Senate doesn't pass money bills in 30 days, the "president" shall dissolve the whole Parliament. This, of course, enrages A.L.P. supporters, who regard Whitlam's sacking as something akin to blasphemy. And, of course, the question arises, that if the "president" would have the same powers as the Governor-General, then why bother to change at all?

**THE REPUBLICAN DICTATORSHIP:** Speaking at an Australians for Constitutional Monarchy Seminar last week, former Chief Justice of the High Court, Sir Harry Gibbs, warned that by vesting the powers of the Governor-General in a 'president' Australia could become a dictatorship. He said: "... the strength of the President and the Prime Minister in conjunction could well enable them, if they were minded to do so, to proceed on the road to dictatorship."

Sir Harry recalled that in the 1970s the Indian Prime Minister, Mrs. Gandhi, had, by advice to her president, been able to exercise dictatorial powers, imprisoning members of the opposition.

"That is by no means the only example of the way in which a democracy can slide into a dictatorship if the constitution does not sufficiently curb the power of the executive. Witness Nazi Germany and Mussolini's Italy," he said. (Weekend Australian, 5/6/93.)

**FRED NILE QUERIES IRVING VIDEO:** Call to Australia leader, Rev. Fred Nile, asked a question in the N.S.W. Legislative Council concerning David Irving's video, The Search for Truth in History. Nile asked N.S.W. Attorney-General, Mr. John Hannaford, whether the N.S.W. Government was taking steps to protect relatives of Holocaust victims from "outrageous, insensitive and provocative statements and videos by David Irving". According to the Australian Jewish News (4/6/93), Hannaford said that he "takes seriously" racial vilification issues, and has already authorised two prosecutions under the provisions of N.S.W.'s race vilification legislation. "I would have no hesitation in approving others if it was brought to my attention that a person was pursuing racial incitement that could lead to breaches of the Anti-Discrimination Act," he said.

Has Rev. Nile seen the Irving video? To which statements of Irving's does Rev. Nile object? Or is Rev. Fred Nile prepared to discard the search for the truth in favour of political correctness?

**NEW UNITED NATIONS CONVENTION:** The new Attorney-General, Mr. Lavarch, has gazetted a declaration which empowers the Human Rights and Equal Opportunities Commission to enforce the United Nations Declaration on Religious Intolerance (1981). We have yet to see a draft of this Declaration, but the reservations of other Christian leaders deserve wide attention. In particular, Rev. Dr. David Mitchell, Moderator of the Presbyterian Church, has a number of points to make. As one of Australia's genuine experts on matters of international law and the Australian Constitution, Dr. Mitchell's comments carry some weight. He has written a letter in which he asks whether objection could be taken, under the new 'legislation', to opening the Australian Parliament's daily sittings with prayer.

David Mitchell also warns that the new U.N. Declaration could offer the Federal Government the mechanism to achieve what they tried to achieve by the referendum in 1988 asking Australians to approve changes to Section 116 of the Constitution to guarantee religious freedom. The referendum question was the most heavily defeated referendum question on constitution change in the history of federation, apparently receiving only 30% support of the formal vote. Perhaps now the A.L.P. have found a way of sneaking it in the back door, through the United Nations Convention.

Dr. Mitchell also speculates on whether the nature of the appointment of the Head of State under the Monarchy might be challenged by such new legislation. Could the Coronation Service become illegal, if some Hindu group objected? Further pressure toward republican status might be applied. Given that the philosophical basis for all Australia's institutions is specifically Christian, this new legislation is a direct challenge to the essence of the Australian constitutional, cultural and spiritual heritage. It is the Christian influence that the humanists and the Fabians must stamp out to destroy Australia's heritage. Every opportunity is being taken to do so.

Readers may care to question their Members of Parliament about how they will vote. We suggest you pay particular attention to the Senate. The new declaration can be blocked by the Senate. Every Australian is "represented" by 12 Senators (unless you live in a Territory), and has the right - the responsibility - of telling them what you want.

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