



A WEEKLY COMMENTARY

ON TARGET

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The price of Freedom is eternal vigilance –

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THOUGHT FOR THE WEEK: "It was... the English constitutional authority, William Blackstone, who wrote: 'The Law of Nature being coeval with mankind, and dictated by God Himself, is of course superior in obligation to any other. It is binding all over the globe in all countries and at all times; no human laws are of any validity if contrary to this.'

Commenting on the break with the Christian heritage by the House of Lords in 1917, but certainly not commending it, Sir William Holdsworth, Professor of Law at the University of Oxford said: "The Judges are obliged to admit that (Government statutes) however morally unjust must be obeyed... One might have thought that the excesses of the Nazi regime would have made our jurists realise the iniquity of such a theory of law. England's Attorney-General at Nuremburg demanded the death sentence for Germans who obeyed the Nazis, but back in England the same Attorney-General said 'Parliament is sovereign, it can make any laws. It could ordain that all blue-eyed babies be destroyed at birth'.

Herod could not teach our modern jurists anything. They are grimly earnest – 'Laws may be iniquitous, but they cannot be unjust'." – *"The Essential Christian Heritage"* by Eric D. Butler, 1971

GOVERNMENT BY TRICK AND DECEIT by Betty Luks: How often have you heard a politician say: The purpose of a democracy is that everybody participates in the political processes. I recently heard George Bush say words to that effect. At the time I thought, "Excuse me Mr. Bush, the purpose of a 'democracy' is much more than that." But of course, as long as the average 'Joe Blow' doesn't think any deeper than usual he will tend to think that Bush must have it right – even though he knows his democratic freedoms are being whittled away before his very eyes.

There is all the difference in the world participating in 'the democratic processes' and living in a nation of freedom loving people who know they have the right to choose or refuse one thing at a time.

The Russian people took part in the 'political processes' under the Soviet regime. They had the 'right' to vote as long as they voted for Stalin and his party hacks – but didn't dare voice their criticism, as did Alexander Solzhenitsyn!

The latest 'smoke and mirrors' trick is designed to further whittle away our freedoms. There is so much media hype about the 'counter terrorism legislation', but little or no mention of the changes to our *federal system* – never mind what will happen to those brave individuals who will dare to criticise our illustrious Leader and his party hacks. What with all the confusion and the political 'smoke and mirrors' the moves to push for another Bill of Rights nearly didn't register 'on my radar screen'!

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ANOTHER ATTEMPT AT BILL OF RIGHTS: We need to be reminded of the background history behind the attempts to impose a "Bill of Rights" on the Australian people. It was on the 18th December 1972 that Australia under the Whitlam government, signed the International Covenant on Civil and Political Rights. The signing of such an international covenant (or treaty) is an undertaking by a government to look at the provisions of the covenant, with a view to introducing them as the law of Australia.

The next step is the ratification of the treaty, or the covenant. Once a nation has ratified a Covenant, it would be obliged in international law, to introduce it into its own internal legislation.

On the 13th August 1980, the Australian government ratified the Civil and Political Covenant which became known as the Bill of Rights. That is, the Australian government of the day undertook to introduce the Bill of Rights into the law of Australia.

Was that a Labor government? NO IT WASN'T! It was a Coalition government!

It was a Coalition Government, led by Prime Minister Malcolm Fraser. Need I remind readers John Howard was also a member of the Fraser government?

In the early eighties after Bob Hawke and his Labor party came to power they attempted to introduce the Bill of Rights, but the public outcry forced them to withdraw it from the legislative programme. But don't lose sight of the fact that neither party has withdrawn from the international commitment to legislate a Bill of Rights into Australian legislation!

THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: As a practicing Christian I am particularly interested in Article 18, No.3 of "The International Covenant of Civil and Political Rights" which says:

"Freedom to manifest one's religion or beliefs may be subject only to such limitations **AS ARE PRESCRIBED BY LAW** and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." (emphasis added ...ed)

So, my freedom "to manifest my religion" will be determined in so far as a *government* prescribes it! That is, I can 'manifest' my religion as the Government dictates by law. The word 'manifest' could cover many facets of a person's religious belief, from going to church to attending a peaceful protest because you are opposed to 'same sex marriage'. Why you might be against the war in Iraq.

In the case of Pastors Danny Nalliah and Daniel Scot of "Catch the Fire Ministries" under the Victorian 2001 Racial and Religious Vilification Act, they overstepped THE LAW by discussing the religion of Islam in relation to the Christian Faith.

We Australians of British descent don't take kindly to United Nations bureaucrats from all sorts of countries, with all types of political and legal systems, civilised and uncivilised, telling us we can *manifest* our religion within the limitations prescribed by LAW.

Surely they must be aware it was the British people who gave the world – Freedom of worship – Freedom of assembly – Freedom of speech – Trial by a jury of one's peers – Innocent until proven guilty – The Rule of Law – The protections of Habeas Corpus – Independent courts of law?

(Someone is going to tell me the systems are not working well at the present time. That we know. But that is because those we trusted have betrayed us. They have perverted or corrupted the systems for the wrong purposes.)

FREEDOM OF RELIGION IS GUARANTEED: My *freedom* to worship, my *freedom* to practice my religion (without the State taking upon itself the power to prescribe that *freedom*) is firmly embedded

in the Commonwealth Constitution Act with those freedoms having strong roots going back deep into the history of the British peoples.

Section 116 of the Commonwealth Constitution Act is clear: "The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth."

THE CHRISTIAN PHILOSOPHY IN THE COMMON LAW: It is important to have a good grasp of the basic principles involved in this matter. It looks like the people, that is, you, me, (us) will have to defend those rights once again.

Constitutional authority Dr. David Mitchell recently explained to his Adelaide audience the Common Law of England commenced with King Alfred the Great around 850AD. A Christian king, Alfred established a system of law based on the Ten Commandments and the Christian Scriptures. Alfred said the law that was to be declared by the Courts was to be drawn from the Ten Commandments and the Christian Scriptures.

He established checks and balances within the whole system:

- The King's Council (or Witagemot) was to advise him. And he would act on that advice, unless it was contrary to the Law of the Scriptures.
- When the Courts made a judgment they were declaring the Law of the Scriptures. In the ordinary course of events, that judgment would be followed in subsequent cases. The Courts were also charged with the task of interpreting the Council's (Witagemot or Parliament) advice to the King.
- The King declared that the Monarch was subject to the Law and had a responsibility to represent and protect the people.

Thus, there grew up a system of Law with checks and balances and the responsibility of protecting the interests of the people.

- The Monarch controlled the actions of Parliament and had responsibility to enforce the judgments of the Courts.
- Parliament checked the actions of the Monarch and if necessary legislated to right an error in judgment or an injustice.
- The Courts interpreted and expressed the Law, according to the Ten Commandments and the Christian Scriptures.

THE FOUNDATIONS OF ENGLISH FREEDOM: In an address to the Aquinas Society in 1942, Richard O'Sullivan, K.C. told his audience the Common Law of England is the only great system of temporal law that came out of the Christian centuries. It came out of the age that gave us the Cathedrals and the Abbeys and the Parish Churches of England, and those ancient centres of learning Oxford and Cambridge.

For the Good of the Whole World: O'Sullivan quoted the memorable words by Pollock and Maitland in *History of English Law*:

"Of this there can be no doubt, that it was for the good of the whole world that one race stood apart from its neighbours, turned away its eyes at an early time from the fascinating pages of the *Corpus Juris*, and, more Roman than the Romanists, made the grand experiment of a new formulatory system... Those few men who gathered at Westminster round Pateshull and Raleigh and Bracton were penning writs that would run in the name of kingless commonwealths on the other shore of the Atlantic Ocean; they were making right and wrong for us and for our children."

They were: Martin of Patteshull, Archdeacon of Norfolk and Dean of St. Paul's; William of Raleigh, Bishop of Norwich; and Henry of Bracton, Archdeacon of Barnstable.

The Courts Spiritual and Temporal: In was declared by Gelasius another Father of the Church in *Letters and Tractates*: "In Christian society the spiritual and temporal powers are entrusted to two different orders, each deriving its authority from God, and each supreme in its own sphere and independent within its own sphere of the other; nevertheless each of these powers is, in a way, dependent on the other and obliged to have relations with that other; so that while each is supreme in its own sphere, each is also subordinate in the sphere of the other."

Christian Sense of Personal Freedom and Responsibility: The teaching of our Lord put an end to ancient doctrines of State absolutism: 'Render to Caesar the things that are Caesar's, and to God the things that are God's'.

Behind the declaration of Gelasius lies a development of the concept of human personality and of liberty that was unknown to the ancient world... The Church maintained that the moral and spiritual life of man shall be beyond the power and reach of the political officers of the community.

The Church insisted there are aspects of human life which are not and cannot be under the control of the laws or the authority of the State.

"Here is the heart of what we may call the Christian revolution," declared O'Sullivan.

The sense of Christian dignity (of the free man under God) and the principles of Christian philosophy converted the nation into a society, an association of families of free men and women living in the fellowship of a free community.

Constitution Orientated Towards God: Men, declared the Christian philosophy, hold their lives on a lease from God, not from the State.

Throughout the creative centuries of the Common Law, the orientation of the mind and life of the nation was towards God: Godward. Everyman, it was said, should be free from control by the political officers of the community, and so to avoid the danger of totalitarianism.

This is the history, this is the philosophical concept of Law, this is the heritage of all Australians.

NAME A MODERN STATE WE CAN LOOK UP TO: Now which of the Communist and/or African nation-states would the politicians have us look to as examples of flourishing, free and democratic nations? How many, out of the 192 countries represented at the "Talkfest, Wine and Dine Club" known as the United Nations genuinely respect human rights? China? Zimbabwe? Russia? America's examples in the prison systems in occupied Iraq?

How many such countries have judiciaries capable of enforcing civilised laws? How many are Rule of Law nation-states with judiciaries independent of the executive? Just imagine trying to enforce the UN Human Rights Covenants within some of these nations – such as Mugabe's Zimbabwe.

Many years ago another Doctor of Law, Walter Henderson of Adelaide, expressed his opinion on Article 50 of the Covenant: "There is a peculiarly insolent provision in the International Covenant on Civil and Political Rights. The provisions of the present Covenant shall extend 'to all parts of federal states without any limitations or exceptions.' One supposes that the academic bureaucrats of the UN are so used to seeing governments grovel before them that they can say whatever they wish to say."

Australians would do well to look closely at how Canadians are faring under their Bill of Rights as presently applied. They will begin to have some idea just what awaits them under such UN inspired legislation.

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