



A WEEKLY COMMENTARY

ON TARGET



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The price of Freedom is eternal vigilance –

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THOUGHT FOR THE WEEK: "The truth is essentially not a matter of dogma, but of demonstration. As with individuals, so with nations. The national culture which produces the greatest degree of individual freedom, mental and material, is the Christian community...Political Christianity – the representative system of government – slowly developed in England."

– Norman F. Webb, "European Background", *The New Times*, December 20th, 1940

IT'S THE LAW THAT IS THE REAL TERRORIST by **Ian Wilson LL.B.:** The Anti-Terrorist Bill 2005 in its first version, was placed on the web by ACT Chief Minister John Stanhope who believes in the principle of free debate, even though he supported the Bill. The result of this is that the ACT has not, and will not receive a copy of the latest draft of the bill which will probably be law as you read this essay. So I will wait now until we have the ink dried on the black letter law before offering a summary of the existing law. For the purposes of freedom movement people I wish to draw our attention towards these issues which relate most directly to our activities.

I assume that most of us do see an "Islamic threat" to Western civilisation, although there will be some differences between us on the causes. What our concern is: how might the new terrorist laws be used against us?

The new terrorist bill implements a number of new regimes: Control orders will allow the Australian Federal Police (AFP) to obtain from Courts a 12 month control order which would permit the use of tracking devices, travel and restrictions on association. This concept builds on already existing apprehended violence orders.

The regime of preventative detention has received considerable media coverage. Originally detention was to be permitted for up to 48 hours in a terrorist situation, to stop further attacks. Terror suspects can now be held for 14 days incommunicado. This has raised an issue of the Constitutional validity of this part of the law and federal government Solicitor Henry Burmester QC has said that there is no guarantee that the proposals did not breach the Constitution.

The High Court held in Lim v Minister for Immigration, Local Government and Ethnic Affairs (1992) 176 CLR 1 that "the involuntary detention of a citizen in custody by the State is penal or punitive in

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character and, under our system of government exists only as an incident of the exclusively judicial function of adjudging and punishing criminal guilt."

However, the Howard government probably has a way around this through the creation of "thought crimes". Make it a criminal offence to be suspected as such by ASIO and AFP and – bingo – no messy problem of Constitutional separation of powers. That seems to be the government's implicit strategy.

Up front though, Constitutional concerns about preventive detention are a worry only for federal law. States can to a greater extent escape this limitation (e.g., Kable v DPP (1996) 189 CL 51 and that is why the federal government has persuaded the States and Territories to implement the preventive detention measure.

There have also been constitutional doubts raised about the use of judges to impose preventative detention and control orders as this *prima facie* breaches the separation of powers of the judiciary and executive and the obligation of a court to act fairly and impartially. But there are ways round this: have the judge act as a person, rather than a member of a court, or use state court judges where the separation of powers is not as rigorously defined.

The controversial shoot-to-kill powers have been dropped from the Anti-Terrorist Bill 2005. The strategy has been to rely upon State law once more: whatever applies under State law will apply to federal law under the Crimes Act. At present lethal force can be used by the police in arrest situations under appropriate circumstances, so the present changes are something of an "overkill".

Other changes include access to airline passenger information for ASIO and AFP; a new ASIO warrant regime with widened search warrant provisions and an extension of stop, question and search powers for the AFP, where there are reasonable grounds that a person might have committed, might be committing or about to commit a terrorist offence.

There will also be a new "notice to produce" regime which will allow AFP to make extended requests for information that will assist its terrorism investigations. Already under the amendments to the ASIO Act people may be held in detention because they may "substantially assist the collection of intelligence that is important in relation to a terrorism offence". American peace activist, Scott Parkin, was deported on ASIO's advice for posing a security risk even though he had no history of violence. He was taken into "questioning detention" and held in a maximum security lock up until deported.

That is a sample of how the anti-terrorist power will be used. "People who pose a terrorist risk to the community" is intentionally vague and will be used, in time, against anyone the dark lords do not like. Thus the offence of sedition will be replaced by the new politically correct thought crime of "inciting violence" against the community. Already the sedition laws have criminalised a wide range of non-violent political protests and at present it is an offence under the Criminal Code (subsection 101 C1), punishable by life imprisonment, to threaten politically-motivated violence with the intention of intimidating some section of the public. The basis for prosecuting political speech will be widened giving seven year gaol terms for people "promoting feelings of ill-will or hostility between groups," or "racial hatred". Court decisions have indicated that almost any criticism on non-Anglo racial and ethnic groups would qualify. Although a "legitimate criticism" defence is offered, as in the racial hatred Acts, the "good faith" clause ensures that no defence will ever get up because someone saying X (where X is the "hate speech") couldn't really be in good faith! At the present time virtually all such racial-based criticism (such as Professor Fraser's defence of the White Australia Policy) is open to potential legal action.

The new laws will do nothing to stop terrorist attacks upon Australian soil. Sedition laws cannot stop suicide bombers, only change in political policies can – if at all. Australia's coasts are freely visited by illegal fishermen now (e.g., *The Weekend Australian*, October 22nd-23rd, 2005, p.9) so who is to stop the smuggling of an atomic bomb to Australia? Could it be that the "terrorist threat" within Australia shouldn't have occurred in the first place and that it occurred only as the result of a "terrorist" immigration and multiculturalism policy designed by social engineers as a weapon of mass destruction against Anglo-Australians?

George Orwell's 1984 is realised in Australia in 2005: "There was, of course, no way of knowing whether you were being watched at any given moment. How often, or on what system the Thought Police plugged in on any individual wire, was guess work. It was even conceivable that they watched everybody all the time."

The all-seeing eye of Mordor seems to have been operating that way for some time.

THE AGENDA BEHIND RELIGIOUS VILIFICATION by Ian Wilson LL.B.: *Endeavour Forum* (www.endeavourforum.org.au) is a wonderful organisation which in Australia has been a leading light defending fundamental Christian institutions such as the traditional family. It has opposed Feminism and abortion and in many scientifically informed articles Mrs. Babette Francis has exposed the follies of feminism and the destructive role it has played in women's lives.

The November 2005 newsletter focuses, among other things, on Victoria's *Racial and Religious Tolerance Act*. According to this Act, truth is not a defence in a charge of "religious vilification". As noted by lawyer Augusto Zimmermann, a Brazilian law professor in the *Endeavour Forum* newsletter, "The Racial and Religious Tolerance Act" has already been used against a pastor from *Catch the Fire Ministries* who said while quoting from the Koran that the Koran treats women badly and that a thief's hands must be cut off for stealing. The pastors were required by a judge to place four advertisements in newspapers to the cost of \$70,000 saying that they vilified Muslims by quoting directly from the Koran. (The pastors are appealing the decision...ed).

As Zimmermann points out, this vilification of the truth is a rejection of a fundamental principle of Western law: that truth is a defence. The Victorian Office of Multicultural Affairs is of the opinion that the law is "working as it should and there's nothing to suggest that this is a bad law." But "working as it should" means that it is serving its objective in making a "multicultural democracy" – or correctly, multicultural society. Democracy has nothing to do with multiculturalism. Democracies may be composed of ethnically and racially diverse people, but a democracy cannot survive on a foundation of relativistic value. If truth is not a legal defence and if truth-telling is effectively criminalised, then democracy has broken down.

Danish newspaper in trouble: The Danish newspaper *Jyllands-Posten* is being protected by security guards after publishing cartoons about Mohammed. Muslim migrants took to the streets. The paper argued that in a democracy satire is an accepted form of criticism. Danish Imam Raed Hlayhel said: "This type of democracy is worthless for Muslims. Muslims will never accept this kind of humiliation. The article has insulted every Muslim in the world." (*The Australian*, October 26th, 2005, p.17) This is ample proof of the fundamental inconsistency between democracy and multiculturalism.

Zimmermann nails the matter down precisely when he says, "if it was a certain cultural heritage that brought democracy and the rule of law into Australia, it is not totally sure that this country might preserve them if it eventually decides to reject its own culture on account of "multiculturalism". He continues: "multiculturalism has been used in Western societies, not just as a fair understanding of

other cultures... it has been used as a powerful weapon by a few social engineers in order to dismember traditional values and replace them by other and more recondite ones." Carried through to the bitter end, multiculturalism will replace genuine democracy with an ethnically-based elected tyranny, a rule by the multicultural mob.

Public Meeting: A public meeting is being held by Endeavour Forum on the "Racial and Religious Tolerance Legislation" commencing at 7.30pm at St. Michael's Hall, 2 Victory Boulevard, Ashburton, Vic., 3147.

BE WARY, PUBLIC WARNED: RUSHED LAWS 'UNHEARD OF' – canberrayourguide.com.au – Markus Mannheim, 6/11/05: The Clerk of the Senate, Harry Evans, has called for a more "active, interested and suspicious citizenry" to scrutinise what he says is Australia's "degenerated" parliamentary system.

The comments follow widespread criticism of the haste in which two highly contentious Bills – the proposed new laws for anti- terrorism and workplace relations – are likely to be debated.

Both pieces of legislation were introduced into Parliament last week, and the Government expects them to be passed before the end of the year.

Mr. Evans, who has presided over the Senate for 17 years, accused the Prime Minister, John Howard, of taking a "monarchical" approach to governing, saying the decision to rush such controversial legalisation through Parliament was unprecedented.

He said Mr. Howard exercised much stronger control over his backbench than previous governments that had commanded Senate majorities, such as those of Malcolm Fraser and Robert Menzies.

"[There] is a greater concentration of power in the office of the prime minister, greater party discipline and greater concentration on spin and media management," he said.

Mr. Evans also said the media's captivation with National Party Senator Barnaby Joyce, who voted last month against a government plan to overhaul competition laws, highlighted a general lack of effective scrutiny in federal politics.

Parliamentary system has 'degenerated': By contrast, when Malcolm Fraser held a Senate majority from 1975-1981, up to nine Coalition senators would cross the floor on various issues. "The fact that people are so excited about this one person, who's crossed [the floor] just once so far, is in itself symptomatic of how the system has degenerated," he said.

An example of this discipline emerged during a party room meeting this week, when angry Coalition MPs urged the Prime Minister to sack the Veterans Affairs Minister, De-Anne Kelly, because she had earlier supported Senator Joyce's right to vote against the Government.

But Mr. Evans said recent events in Britain and the United States, where the governments of both Prime Minister Tony Blair and President George W. Bush were under increasingly strident attack from dissidents within the ruling parties, had left him with a "faint optimism" for the future of Australia's parliamentary democracy.

"People are getting fed up with the style of Tony Blair, his control freakery. You can see signs of that in the US, too." (Would to God we could also see it happening more in Australia...*ed*).

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