Australia Dossier by Allen Douglas

High Court rips Constitution

Australia's High Court has been a bastion of British imperial control over the country from the beginning.

The legal profession's Aristotelian pettifoggery and utter lack of concern for truth, makes it a rightful object of scorn in many countries. Typical of the respect accorded the world's "second oldest profession," is the old joke:

Q: What do you call a million lawyers at the bottom of the Atlantic Ocean?

A: A good start.

Many in Australia would argue that that is a fitting place for their country's High Court justices, as well. An intense debate has broken out downunder over the last year, about the court's increasing "judicial activism"—its tendency to write whatever laws it feels like, instead of interpreting the law within the confines of the (admittedly problematic) Australian Constitution. The court has been attacked fiercely by elected officials at all levels, most notably Queensland Premier Rob Borbidge, who proclaimed the court to be "disturbing and dangerous," and who is organizing to clip its wings, either through direct election of its justices (now appointed by the government), or by instituting a higher Court of Appeal. Recent court decisions which have enraged many millions of Australians include:

- The 1982 Franklin Dam decision. The court explicitly violated the Australian Constitution, which specifies that each of Australia's six states has control over its waterways, by deciding that the "external affairs" clause of that same Constitution, allows treaties made with foreign powers to override it. So, the court decided that UN treaties on "natural heritage" and the environment could override the Tasmanian state government's decision to build the much-needed Franklin Dam, a project fiercely opposed by the greenies. Since then, some 3,000 additional treaties have been negotiated, which also override the Australian Constitution.
- The 1992 "Mabo decision." The court found, in an obscure land dispute case in the Torres Islands off the northern tip of Australia, that Australia was not *terra nullius* (empty land) when the first colonists arrived, thus throwing open to question the ownership of much of the continent. Named for Torres Strait Islander Eddie Mabo, the case was orchestrated by Anglophile professor Henry Reynolds, a proponent of a separate "aboriginal nation."
- The December 1996 "Wik decision." Notwithstanding the Mabo verdict, it had generally been assumed that existing pastoral leases "extinguished" aboriginal land rights. But, the Wik decision said that "native title" could coexist with private landholdings, throwing the ownership of all of rural Australia into uncertainty—and the countryside into an uproar. As a combined result of the Mabo and Wik decisions, an astounding 80% of the Australian continent has been claimed by aboriginal groups.

Since even before the federation of Australia's six states into a Commonwealth in 1901, the legal profession served as a bastion of British imperial control over the country. The Constitution was drafted by an Anglophile lawyer, Sir Samuel Griffiths, and then, with his permission, was secretly redrafted in London, to make the Queen and her Privy Council, Australia's head of state and chief legal body. Griffiths became the first chief justice.

Over time, Australia became sufficiently housebroken to be permitted to rule itself, and the High Court replaced the Privy Council as the highest court in the land, though the chief justice himself was often a member of the Privy Council. Nowhere is this continuing imperial control clearer, than in the case of "aboriginal land rights"—a Crown plot to steal Australia's vast raw materials wealth—whose chief proponents are High Court justices and their families, whether in, or out of court.

The whole scam was initiated by Prince Philip himself, through the Australian Conservation Foundation, which he founded in 1963. A key initiator of the ACF, later its president, was Chief Justice Sir Garfield Barwick, a member of the Privy Council. The chief justice during the Mabo decision, and now, is Sir Gerard Brennan, whose son, Frank Brennan, S.J., is a Jesuit priest and one of the country's top land rights activists. Two recently retired justices, Sir William Deane, now governor-general, and Sir Ronald Wilson, have been two of the most outspoken advocates of Mabo/Wik, and together chaired the 2,000-delegate Aboriginal Reconciliation Convention in Melbourne at the end of May.

The High Court's degeneracy is also manifest in the person of Justice Michael Kirby, its most outspoken proponent of "judicial activism." In 1993, Kirby keynoted the founding meeting of the George Soros-funded Australian Parliamentary Group for Drug Law Reform. There, Kirby argued that the federal and state governments should legalize drugs—suggesting a new meaning for the term, "High Court."