

Australia Dossier by Allen Douglas

High Court outlaws free speech

In its latest corruption, the High Court overturned its earlier "Theophanous" decision, with ominous implications.

On July 8, Australia's High Court effectively overturned its own 1994 *Theophanous* decision, which had recognized an implied constitutional right to free speech in political matters. The decision was unanimous, even though two of the court's justices had earlier voted for free speech in *Theophanous*; it has ominous implications for the right of the media to criticize the actions of politicians, without being sued.

The High Court is packed with leading members of Australia's Anglophile establishment, and the nation's media are dominated by multi-billionaires Kerry Packer and Rupert Murdoch, who are leading figures in that establishment. Thus, the court's decision clearly was not aimed at them, but rather to muzzle what's left of the independent press, such as the *New Citizen*, the newspaper of Lyndon LaRouche's associates in the Citizens Electoral Council.

The decision was also ominous because of the case which the High Court used to render it, a choice which surprised many observers. In 1988, a New Zealand television station made a hard-hitting documentary which demonstrated the extremely close ties between the Mont Pelerin Society's New Zealand Business Round Table, and the "free trade" Labor Party government which was selling off the nation's assets to Round Table members for a fraction of their true worth. The documentary covered some of the same territory as *EIR* did earlier (Sept. 5, 1986), the first major attack against the Round Table and its Labor puppets.

That article, and a 1988 series,

"The Rape of New Zealand," which were circulated in tens of thousands of copies in the 3.4 million-person country, caused an uproar. A threat by a Round Table-tied figure to sue *EIR* for \$10 million, did not materialize, but, the head of the Labor government, David Lange, sued both the New Zealand station which made the film, and the Australian Broadcasting Corporation which rebroadcast it. The New Zealand station backed down and fired the entire staff which had produced the documentary, while the ABC defended its showing under *Theophanous*.

What Mont Pelerin's Round Table did to New Zealand, is now being done to Australia, as well. By overturning *Theophanous*, the High Court is doing what it has always done: guaranteeing that the country can be looted by British and allied interests. From the time Australia was founded as a nation in 1901, until 1987, the High Court answered to Her Majesty's Privy Council in London. The purpose of the High Court, as was made clear in British Foreign Office documents of the early period, was to "protect British investors" in Australia, a tradition which has remained unbroken, even after appeals to the Privy Council were formally abolished in 1987.

The Court's 1992 *Mabo* and 1996 *Wik* decisions in favor of "aboriginal land rights," are indicative of the process: Under this rubric, vast swaths of the continent are temporarily given to aboriginal front men, to then be turned over to the Queen's multinationals, such as Rio Tinto Zinc and Anglo American Corp. (see *EIR*, April 28, 1995).

The career of the late, longtime High Court Chief Justice Garfield Barwick, is also indicative of the High Court's corruption. A raving Anglophile, Barwick had successfully argued before the Privy Council in 1947, to overturn the nationalization of the banks which Labor Prime Minister Ben Chifley had passed through both houses of parliament, for the purpose of continuing to direct credit to agricultural and industrial development, as the government had done during wartime. Barwick later became the High Court's Chief Justice (1964-81), and then the president of Prince Philip's Australian Conservation Foundation, which established the notion of "aboriginal land rights" in the country. In 1975, Barwick gave the go-ahead to Governor General John Kerr to sack Prime Minister Gough Whitlam, because Whitlam was trying to "buy back the farm," i.e., to establish Australian national sovereignty over its own raw materials, at the expense of the Queen's minerals cartel.

But Barwick's corruption was too rank to be hidden beneath his powdered wig and flowing robes. As even the *Melbourne Age* noted on July 15, in reporting his death, "His court upheld the legality of artificial tax-avoidance schemes, after which tax dodging reached scandalous proportions and spread into criminal evasion."

High Court justices such as Barwick, base their decisions on principle-free British "common law," which allows a ruling establishment to do whatever it pleases, as opposed to "natural law," rooted in the sanctity of the individual human soul. For example, oft-cited former Australian Chief Justice Isaac Isaacs, later a governor general, argued in the 1920s, "No more profound error" could be committed by the High Court, than to accept "American notions of natural law."