

Finally, it is of interest to note that Arvid Pardo has been awarded the 1983 Third World Prize as a recognition for his role in initiating and developing the argument in the UN that the wealth of the seabed be the common heritage of mankind when he was Maltese ambassador to the UN. He is now a professor of political science and international law in California: South, December 1983 at 55.

D F

EXTERNAL AFFAIRS POWER

The Tasmanian Independent, Senator Brian Harradine, has indicated (Sydney Morning Herald, 29 July 1983 p.4) that he will introduce a bill in response to the High Court decision upholding Commonwealth legislation aimed at stopping construction of the Franklin dam. Such a bill would require parliamentary approval of international treaties before they are signed by the Government will be introduced to the next session of Federal parliament.

Senator Harradine said the High Court decision had broad implications in legislative areas traditionally falling within State responsibilities.

He would also move for the establishment of a Senate standing committee for the scrutiny of treaties.

D.F.

BILL OF RIGHTS AND EXTERNAL AFFAIRS POWER

The action in Commonwealth v. National Times May 1983 (No.10 of 1983) which was subsequently settled raises interesting questions. As a result of the Franklin Dam decision (Commonwealth v. Tasmania (1983) 57 ALJR 450), it has been announced that the government will introduce a Bill of Rights based on the external affairs powers.

A Bill of Rights could be of considerable importance in the development of human rights. For example, if Australia were to enjoy a constitutional guarantee of freedom of speech or a prevailing right in a Bill of Right it might well be that the High Court would take a similar position to that adopted by the United States Supreme Court in U.S. v. New York Times 403 US 713 (1971). This was the famous Pentagon Papers Case where the Supreme Court refused an injunction to restrain their publication. Justice Black observed that ~~the~~ ^{first amendment the Founding Fathers gave the press the protection that must have} to fulfill its essential role in our democracy. "... The government's power to censor the press was abolished so that the press would remain forever free to censure the government. ... the word "security" is a broad, vague generality whose contours should not be invoked to obligate the fundamental law established in the first amendment. The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security for our republic ...". It should not be thought, however, that prior restraint is absolutely prohibited in the U.S. In a fascinating comparative study between the situation prevailing in the United Kingdom and the United States, Evan J. Wallach indicates that there is no absolute right of free speech, even in the United States: 1983 32 I & CLQ Rev.424. The United States appears to be freer than the United Kingdom in this regard although there "the harsh reality is that the last word is clearly the government's. ...It speaks well for Britain's claim that executive powers are often restrained by notions of fair-play that prior restraint is not more widespread". It will be recalled that in contrast to Vietnam, and along the lines of the policy adopted by the UK in the Falklands/Malvinas War, the U.S. was slow to admit the press to view its operations in Grenada.

The creation of some guarantee of freedom of speech by way of legislation under the external affairs power in Australia would provide a fascinating interplay of international and comparative law. On human rights generally, the paper by

the Attorney General, Senator Gareth Evans Q.C. Discrimination and Human Rights presented at the Australian Legal Convention Brisbane 7 July 1983 is of particular interest. Another view (and proposed draft legislation) was presented by Mr. Justice Staples in an address Legislating for Human Rights, Council of Civil Liberties Seminar, University of Sydney 3 August 1979. Mr. Justice Staples turns away from the UN Convention, and looks instead to the European system which, at least at the institutional level, has recorded many successes in the field of human rights.

A Draft Defamation Bill was released for comment on 26 November 1983 at a Media Law Association Seminar in Sydney. Senator Evans undertook to submit comment on a number of aspects of the Bill to the December meeting of the Standing Committee of Attorneys General. In particular this would include the question whether the defence coupling truth and public benefit contained in the Draft Bill should be varied in accordance with a published alternative based on truth and privacy. At the time of going to press, the Bill of Rights has not yet emerged.

D.F.

AUSTRALIAN TIMOR BOUNDARY

The agreed boundary between Australia and the Indonesian territory of West Timor approximately follows the outer limit from Australia of the 200 metre water depth on the edge of the Timor Trough. No agreement was reached with Portugal in relation to Portugese Timor during the time of Portugese administration. Portugal did grant an exploration permit in 1974 to a U.S. company partially into areas which Australia might regard as hers if a similar formula for determination of the boundary to that used in the earlier negotiations with Indonesia applied. The discovery of oil at Jabiru 300km to the north of Australia has drawn attention to the fact that no agreement on this question has been settled with Indonesia - no doubt because of the sensitivity of the East Timor issue.

D.F.