

# Taxing times when it comes to independence

WHEN did Australia become an independent nation? I would have answered 1901, the year of Federation. But I would have been wrong.

In a 2004 letter to a constituent, federal Attorney-General Philip Ruddock says Australia remained a dominion after 1901 and "attained an independent status in international affairs over the course of the 20th century".

There's no particular "independence day" for Australia. Instead, there's a series of milestones, including Australia's accession to membership of the League of Nations after World War I, the enactment of the Statute of Westminster Adoption Act in 1942 and the 1973 law that turned the Queen of England into the Queen of Australia.

Just for safety's sake, both England and Australia enacted the Australia Act in 1986 to put the issue beyond doubt.



Mr Ruddock affirmed that the High Court had not managed to identify any "single point at which Australia became fully independent for all purposes".

While few would seriously say that Australia today is a British colony, the technical underpinnings of our nationhood are confusing enough for anybody so inclined to cast doubts on the solidity of our nation's legal foundation.

And there are some who want to. Soon, one group of Australians hopes, the European Court of Human Rights will hear a case titled *David Claude Fitzgibbon v Her Majesty's Attorney General of the United Kingdom of Great Britain and Northern Ireland*.

Mr Fitzgibbon is a Newcastle-based barrister who has for years asserted that inconsistencies in some English and Australian statutes mean swaths of Australian law are invalid.

When he took his argument to the English High Court he extracted an admission that the Queen may have used the wrong seal to approve some Australian appointments, but the court declined to go further, deciding it had no jurisdiction.

The claim in the English courts itself capped off years of efforts by other Australians who had been making the same arguments at home.

One organisation known as the Institute of Taxation Research argued that changes to Australia's international sovereignty since 1901 meant that laws passed by the federal and state governments were invalid and there was no binding requirement to pay tax. None of its legal challenges succeeded and the institute was eventually wound up.

A former solicitor involved with the institute, Mr Wayne Levick, argued in Blacktown Court in 1999 that he shouldn't have to pay a \$60 parking fine because the Australian constitution was "null and void". He lost and had to pay \$800 in costs.

So, is the Government panicked at the prospect that it may suddenly be declared illegal by a European court?

Not exactly. The Attorney-General's department gave me the following statement: "The Government is aware that Mr Fitzgibbon has previously pursued similar actions, including in the United Kingdom's High Court of Justice, and that all of these previous actions have failed. It will not be taking part in any proceedings."

Better keep paying your fines and taxes, at least for the time being.

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swimmer (1981-).

## Odd Spot

Picasso's famed *Dream* turned into a nightmare Vegas casino magnate Wynn when he accidently broke the multi-million dollar elbow. Wynn had just finalised a \$US139 million (\$185 million) sale to a collector of his painting *Le Reve (The Dream)*, who poked a finger-sized hole in the artwork while showing it to friends at his Las Vegas couple of weeks ago.

## Today's text

"You can develop a healthy, robust community that is right with God and enjoy the results only if you do the work of getting along with each other, treating each other with dignity and honour." J