

No Country is an Island.

14 June 2006.

Back in the 60s when my generation studied international law in Phillip Street – not very much and not very well - we poured over the latest verdicts from the Hague and decisions from Geneva and discussed how they were extending the civilising reach of international law. But other conversations were going on.

Where? Texas. Not in assemblies and tribunals but in bars and locker rooms - like the locker room of young George W's baseball team the Texas Rangers. And they weren't talking peace and justice. This Texas backroom school of international law – taking what John Howard might call a “practical and sensible” approach to the subject – set its sights on getting rid of the fussy little considerations that stood between imperial power and absolute power.

These thinkers came from the world of the sheriff, the posse, the shoot out and the gun. I haven't seen enough westerns to be an authority on the matter, but I can't think of many that had a courtroom as an arena for heroics. In the West of the Western, courts are despised. Power not justice is key. Just as true Presbyterians take wealth to be a sign of grace; the frontier thinkers who came to power with George W. Bush take it for granted that superior force marks superior virtue.

So in the last six years the United States has inter alia junked the laws of war, of fair trial, due process and habeas corpus, thumbed its nose at human rights committees, mocked and impoverished the UN, refused to join the International Criminal Court, defied Kyoto, skewed world trade with bilateral treaties – and tugged little Australia along in its wake.

In the gentle language that characterises the tough conclusions of this book, the authors argue that going along with this has exposed Australia terribly. They write: “Exceptionalism is an inappropriate strategy for a small player in the international community that will need to form a variety of alliances with other states and that will often rely on notions of reciprocity in the application of international law.”

When I’m stopped in the streets over the next few weeks – as I expect to be – and asked what’s *No Country is an Island* really about, I’ll say “It’s a hymn to reciprocity.” And to the romantic possibility that “The previously unlimited scope of executive power to enter into international agreements would be constrained and made more accountable by greater democratic oversight.”

I know a book launch is not a book review. But I want to strongly recommend this book – especially to those who think they already know the subject. It brings cool good sense to complex brawls about international law that began before – but have flourished during – the Howard years.

It bravely argues for the need to discipline the executive at a time when the whole drift of politics - and alas the law – is travelling in the other direction.

In a way that will make the book constantly useful, constantly referred to, it gives the essential account of David Hicks in Guantanamo and the negotiation of the Free Trade agreement with the United States. These are lucid narrative of fact and principle.

But developments since *No Country is an Island* went to press late last year make the Australia’s position, if anything, shabbier. The authors have an almost optimistic argument that while Australia is hostile to international human rights laws, at least we respect international trade obligations. We whimper

about lost sovereignty when the issue is how we treat our own citizens. But when trade is at stake, sovereignty is forgotten in the pursuit of wealth.

But the AWB scandal reminds us that even that distinction doesn't hold. During the first Gulf war, in conformity with UN Security Council Resolution 661, Australia banned all shipments to Iraq unless the foreign minister was "satisfied that permitting the exportation will not infringe the international obligations of Australia". This was not a vague convention or a treaty ratified without supporting legislation. This was a domestic regulation still in force when the UN's oil-for-food program began in the late 1990s.

According to the law of this country, no wheat could leave Australia for Iraq without a tick from Alexander Downer or his delegate. But a shadowy decision was taken that the Department of Foreign Affairs and Trade would leave supervising the trade to the incompetent – and *known* to be incompetent - UN Office of the Iraq Program. Over the following years, Downer and his officers would sign off on 292 ships carrying 12 million tonnes of wheat to Iraq worth more than \$3 billion. And almost every cargo breached sanctions.

The lesson is that Australia will ignore any of its international obligations when it suits –especially if they stand in the way of making money. It's our own doctrine of exceptionalism. That America opts out of its obligations on a much grander scale and with much finer rhetoric encourages Australians to feel free to do what we want, when we want. As John Howard said – and as the authors quote - ."In the end we are not told what to do by anybody."

It's the voice of the gunslinger. Imagine the scene: the streets of the town are deserted. Only a few faces can be seen peering over the swing doors of the bar. Out in the street, the lone gunslinger John Howard waits for the baddies to ride into town. From the

side of his mouth come the fighting words: “In the end we are not told what to do by anybody.”

We are not a nation but a corner shop: our purposes are trade; our ethics are small business; window dressing is vital; there are two sets of books; we underpay and overcharge; our survival depends on grovelling to the supermarket up the road. Profit isn't everything but money is the key.

Australia is not a country where principle holds sway. What I admire most about *No Country is an Island* and the team behind the project, is their determination to keep speaking for principle. I'm proud to launch the book and wish it a long and influential life.

D.E.M.