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Submission No.11.1.....

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FAX TO: Mr. Bob Morris,
Inquiry Secretary,
Joint Standing Committee on Treaties,
(02) 6277 4827

2 February 2001

Dear Mr. Morris,

Re. Inquiry into the Statute of an International Criminal Court

Thank you for allowing me to lodge a supplementary submission. I attach it herewith - eleven pages in total.

As was the case with my original submission, I work with the publisher's programme, Quark Express. I can transfer the document to Word and re-submit as an email. However, as I was anxious for you to receive it by today's deadline, I have not yet done that, but I can if that is your wish.

I would request that this supplementary submission be authorised as quickly as possible and posted to the website.

I much appreciate your assistance in all of this.

Kind regards,

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**SUPPLEMENTARY SUBMISSION
to the
JOINT STANDING COMMITTEE ON TREATIES**

INQUIRY INTO THE 1998 STATUTE OF AN INTERNATIONAL CRIMINAL COURT

January 2001

The Committee has already received and authorised for publication my initial submission dated November 2000. In view of the fact that the Committee has now invited me to attend the Sydney hearing as a witness, and that the time available is to be restricted to 40 minutes, I believe that it will be helpful if the following additional comments are made available to Committee Members prior to the hearing. Particularly this is so, since the list of witnesses that I have been given indicates that I am to be the only one appearing on that day who wishes to support the "No" case. I would therefore ask that Members pay me the courtesy of reading this supplementary submission.

Whereas my original submission detailed major concerns about the Treaty, this supplementary submission delves into the background of the initiating body, the United Nations.

The Committee's sole Terms of Reference are that it "shall inquire into and report to Parliament on whether it is in the national interest for Australia to be bound to the terms of the Statute for an International Criminal Court."

I suggest that before the Committee can make meaningful recommendations to the Government and, indeed, before our Government irrevocably commits itself - on behalf of the people of Australia - to the 128 Articles incorporated into the 68 pages which constitute this Treaty, very serious consideration should be given not only to the Treaty's source but to those groups and organisations who are so vehemently pushing it.

Undoubtedly the Committee is aware of the reasons why the United Nations was established at the end of World War II and nobody could dispute the fact that the principles as outlined in the Charter were, and remain, quite admirable. However, most people appear unaware of the fact that the UN was created with heavy involvement from the Soviet Union. Indeed, the UN Charter was written mostly by Andre Gromyko, long-term Foreign Minister of the Soviet Union.

The UN Security Council is described as "controlling all UN military and police functions, all disarmament moves, and all atomic energy matters." It should therefore be a matter of some alarm to read that, from inception until the nineties, the important position of Under Secretary-General for Political & Security Council Affairs was held by a Soviet, as follows:

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1946-49	Arkady A. Sobolev	USSR
1949-53	Konstantin E. Zinchenko	USSR
1953-54	Ilya S. Tehernychev	USSR
1955-57	Dragoslav Protich	Yugoslavia
1958-59	Anatoly Dobrynin	USSR
1960-62	George P. Arkediv	USSR
1962-63	Eugeney D. Kiselev	USSR
1963-64	Vladimir P. Suslov	USSR
1965-67	Alexie E. Nesterenko	USSR
1968-73	Leonid N. Kutakov	USSR
1973-78	Arkady N. Shevchenko	USSR
1978-80	Michail D. Sytenko	USSR
1981-86	Viacheslav A. Ustinov	USSR
1987-90	Vasily S. Safronchuk	USSR

The first Chairman of the UN General Assembly was our own Dr. H.V. Evatt, a Fabian Socialist, who became Attorney-General in the Curtin Government. History records that it was his idea to use Section 51 (xxix), the External Affairs provision, of the Constitution as a means by which international agreements could be entered into, particularly those emanating from the UN, as he believed that the High Court would interpret this section as extending to the Federal Government the constitutional power for such actions, even if the power of the States were to be thereby eroded.

The one dissenting voice from the High Court was that of the then Chief Justice, Sir Harry Gibbs, who stated, in 1983, that if s.51(xxix) was used to allow the Parliament to override any decisions that the States' Executive Councils might make, **"the Commonwealth would acquire unlimited legislative power."** We see now that is exactly what happened as successive Australian governments have committed our nation to a plethora of treaties - without the knowledge or consent of the people.

In the meantime, UN offshoots in the form of the International Monetary Fund and the World Bank were being created by H.D. White and his associates - all Communists - who worked in close co-operation with Fabian Socialist J.M. Keynes. Harry Dexter White had been Under-Secretary of the US Treasury during WWII but, having been found to be a Soviet agent, instead of being sacked, he was appointed Executive Director of the US Mission to the IMF.

Fabian Socialists, as we know, believe in centralised and increased government powers to the point where the State controls everything, so to that extent they are virtually indistinguishable from Communists. Indeed, there is extensive and conclusive evidence showing that the Fabians have played a vital role in furthering the Communist cause around the world.

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Other key players in the UN include Kurt Waldheim who served for a period as UN Secretary-General. While various estimates show that Hitler and the Nazis were responsible for up to 25 million deaths in World War II, Kurt Waldheim was at one time a Nazi Lieutenant, found guilty by an international panel of facilitating Nazi war crimes. Despite being listed as a suspected Nazi war criminal in the UN's own War Crimes Commission in 1948, it appears that he managed to secure his UN appointment by lying about his Nazi service. He reportedly still draws an annual UN pension of \$US102,000.

- The UN grew and flourished - under the pretext of assisting all nations to sort out their differences in an amicable fashion - and it has now become obvious that this is to be the mechanism by which One World Government can be installed while the IMF and World Bank control the greater part of the economic activities of all but Communist countries.

As far as the Treaty under review is concerned, the UN expresses admirable sentiments about the need to establish a permanent international criminal tribunal in order to bring to account all those who have committed crimes against humanity, thus acting as a deterrent to any possible future crimes. However, it is not clear to me how any government could have confidence in the body responsible for urging the Treaty upon the world - a Treaty which could clearly have the effect of prosecuting and imprisoning Australian citizens - when it continues to pay such a handsome pension to a former convicted Nazi criminal and when taking into account that same body's background and evolution.

- It has been claimed that UN Secretary-General, Kofi Annan, has proposed that, in the event of human rights violations by a state of its own citizens (that is to say, **perceived violations of those human rights standards that have been deemed to be appropriate by the UN**), it should be permissible for coalitions of other states to **"use force to stop that offending state's behaviour."** But, the former Australian Ambassador to Cambodia and now Visiting Fellow at the Research School of Pacific and Asian Studies, ANU, Mr. Tony Kevin, says that, **"If the international community succeeds in denying the right of a sovereign Member State of the UN to have a real say in trials of its own citizens for crimes committed within its own territory against its own citizens, then the Annan doctrine will have established an important precedent."**

Perhaps the Secretary-General, in making such an outlandish proposal, is unfamiliar with the terms of the UN Charter as Article 2 states, inter alia: **"Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter..."**

The estimated 3,500 UN instruments to which we have been a signatory constitute a formidable array of rules and regulations which intrude into virtually every aspect of life. For example:

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The Lima Declaration and Plan of Action on Industrial Development and Cooperation, adopted in 1975, is described by the Department of Foreign Affairs and Trade as a document that sets out recommendations on assistance to developing countries and that "it is not, and never was, binding on the Australian Government under international law." Regardless of that reassurance, however, the fact remains that successive Australian governments have strictly followed its terms to the point now where our manufacturing industries are all but destroyed and rural communities have been decimated.

The UN Convention on the Rights of the Child which removes parents' control over their offspring. In the words of Professor Richard Wilkins, (Director, The World Family Policy Center in the US), "The UN Committee seems to view the child as a miniature adult with rights to privacy, freedom of expression and freedom to decide what he or she will learn, even as against their parents". In other words, parents are not permitted to prevent their young child viewing pornography on the Internet, or prohibit his association with those who are believed to be undesirable. And if the parents do not abide by the terms of the Convention, the UN Committee has the power to remove the child from their care.

The UN Treaty on Biological Diversity has the power to restrict a person's management and enjoyment of his/her own land or backyard. Under the terms of this treaty, protected areas are to be established "for the purpose of conserving biological diversity" which requires land use control in adjacent areas. Thus, a householder who is unfortunate enough to own land adjoining one of these protected areas can be told what he can or cannot do in his own garden.

The International Covenant on Civil and Political Rights and the Convention relating to the Status of Refugees. Both these documents, to which Australia has been a signatory, impose serious restrictions on how we deal with the ever-increasing flood of illegal immigrants.

The Fifth Protocol of the General Agreement on Trade in Services, produced by the World Trade Organisation, has required us to open up all financial services, including banking and insurance, to foreign takeovers. This followed closely on the heels of the infamous **Multilateral Agreement on Investment** which temporarily had to be shelved because of public outcry.

The Australian Government frequently denies that, legally, international law has any binding effect upon our own domestic legislation. Indeed, we are told that it is difficult for international law to be enforced because each nation is sovereign and the UN can do little to compel a Member State to change its ways.

However, this statement is clearly contrary to that which was published in the International Herald Tribune in April 1999, and attributed to the Co-Chairmen of the Commission of Global Governance, which said: "**The UN Charter is every country's superior law.**" When queried, the Department of Foreign Affairs & Trade responded by saying:

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"In order to have effect in domestic law, the terms or obligations of a treaty must be enacted in Australian law.....The Charter provides that nothing contained within it shall authorise the UN to intervene in matters which are essentially within the domestic jurisdiction of any state, a further recognition of the principle of state sovereignty."

But such a statement is clearly in conflict with reality, as illustrated by many examples, such as the Teoh case; and the Cambodian boat person, held in detention for more than four years and who then lodged a complaint to the UN Human Rights Committee which found several breaches by Australia of the International Convention on Civil & Political Rights, thus forcing us to pay the man compensation; and the Tongan, who had been convicted of several sex offences, and who had his deportation order overturned on the basis that it contravened international law under a UN convention; and the Chinese national, who had arrived here illegally by jumping ship in Sydney, who then married an Australian citizen and was refused a permanent visa to stay in Australia because he was, at the time, serving a seven-year sentence for the possession of \$3 million-worth of heroin. The Immigration Dept. was ordered by the Court to review its decision on the basis that it had not given proper consideration to Australia's obligations under the relevant UN Convention.

In its report entitled "A Review of Australia's Efforts to Promote and Protect Human Rights", a former Joint Standing Committee on Foreign Affairs, Defence and Trade stated:

"Despite the recognition at the outset of the principle of the 'sovereign equality' of all peace-loving states, there has been a tendency for the United Nations to limit national sovereignty. This evolution, therefore, increasingly demands a reconsideration of the principle of national sovereignty. United Nations conventions, now covering a wide range of activities, inevitably change the character of domestic institutions, affect domestic legislation and extend accountability beyond the usual domestic constituency. This extension of international accountability is not without its tensions or accusations or unwarranted intrusions into the internal affairs of countries. This is especially so where international judgments are critical."

In his submission to the Human Rights Sub-Committee in January 1994, Senator Rod Kemp said that, in his opinion:

"...there has been an increasing willingness to sacrifice Australia's law and independence to the decisions of remote international bodies, many of whose members come from states which have never enjoyed stable democratic government and whose decisions may be made without acceptable due process. This is not an acceptable approach to internationalism. Australia's independence is sacrificed for no genuine and substantive gains."

Senator Kemp is, of course, quite right.

Even that well-known internationalist, Gough Whitlam, in 1973, when discussing the abolition of appeals to the Privy Council, said: **"...It is entirely anomalous and archaic for Australian citizens to litigate their differences in another country before judges appointed by the government of that other country."** As we know, appeals to the Privy Council were eventually abolished and many people then genuinely believed that Australia had become a truly independent nation and would from that time onwards manage her own affairs. However, that was not to be, because, having cut those ties with the United Kingdom, we very soon realised that, in her place, was the much more intrusive United Nations.

The UN is now a huge bureaucracy, tentacles from which have invaded nearly every corner of the globe and into the private lives of every citizen of Member States. It is a global organisation with enormous power - intimidating and acting in a manner entirely contrary to the humanitarian principles it purports to uphold. The UN's own website reveals that it has so far secured the lodgment of an astonishing 40,000 Treaties.

The activities of the United Nations can at best be described as a dismal failure. Its supporters talk of peace and freedom but one only has to look around the world to see that the human race is suffering under more oppression, despair and conflict than ever before. The free trade zones - so energetically promoted by the WTO - are no better than wartime concentration camps with desperate people exploited to the hilt by their wealthy employers who pay around \$2 for their slave labour. For this princely sum, human beings are treated worse than animals, having to sleep on the floor of the factory and denied proper facilities such as tap water, medical assistance or even sewage disposal.

For reasons which defy all understanding, Australia has allowed herself to be drawn into this most remarkable arena of hypocrisy and greed. We are on the brink of losing our identity and have already given up our own decision-making processes. While the various steps towards One World Government are being successfully implemented, we have turned into a nation of cringers, forbidden to speak our minds for fear of being labelled a lunatic or a racist.

As to why our "elected representatives" continue to ignore the abundance of evidence in relation to One World Government, one can only speculate. Have they not taken the time to investigate such a possibility? Or could it be that the entire proposition seems so outlandish and preposterous that they have buried their heads in the sand, for fear of being seen as foolish? I submit that future generations, enslaved under such an evil, will look back in horror at the actions of our politicians which allowed it to happen

When the Berlin wall was removed, many people honestly believed that Communism had gone for ever. But, of course, it has not - it has merely resurfaced under another guise. While Mikhail Gorbachev, in 1989, said that: **"The United Nations will be the controller of all the lands in the world"**, a more modern statement of purpose or intent comes from the World Federalist Movement. This Washington-based organisation's policy arm is the

Institute for Global Policy. The Institute's manifesto is to **"promote ways to strengthen global co-operation, improve international and inter-governmental decision-making, and to foster development of more effective frameworks for global governance in the next century."** IGP Project areas include **"global citizenship and leadership, global governance...."**

The World Federalist Movement's Statement of Purpose reads: **"As world federalists we view the world as one society, embracing all of humanity in all its diversity.....This is the essence of world federalism: to seek to invest legal and political authority in world institutions to deal with problems which can only be treated adequately at the global level.....Our objective is to have not only governments but individuals recognise their obligation to uphold and affirm world law through allegiance to these Institutions."**

In other words, we cannot be trusted to manage our affairs to meet their requirements, therefore it is necessary for international bodies to do it for us. What incredible arrogance!

The Executive Director of WFM is William R. Pace who has served with Amnesty International, and is the co-founder of numerous NGO networks and steering committees including the Coalition for the International Criminal Court. This Coalition was formed in 1995 and boasts a network of over 1000 NGOs and international law experts, all of whom are working tirelessly "to foster awareness of and support for the Court." **I note here with interest that Mr. Pace is the author of one of the submissions to the Committee. Is Mr. Pace an Australian citizen? If not, by what right does he speak now?**

The WFM claims that its Vision is as follows: "World Federalists are united in seeking to bring peace and justice to the world community through effective global institutions and binding international law." The Movement states that it is active on a broad range of global issues and is committed to "empowering the UN". I should like to know by what authority the WFM, the CICC or any other NGO has the right to impose upon the people of Australia any permanent and binding international instrument?

These organisations speak with passion about peace and human rights but, like the UN itself - which is frequently described as merely "a travelling cocktail party" - all these various groups are noticeable by their absence in times of crisis - as evidenced in the slaughter in Rwanda, the bloodshed in Kosovo and, of course, the East Timor disaster.

At the time of writing this submission, hundreds of thousands of innocent Christians in Ambon are being forcibly "converted" to Islam by mass slaughter and mutilation, including both male and female circumcision without anaesthetic or medication. Fifty-six years after the war, much is still being written about the Holocaust while lawyers all around the world gleefully reap the benefits from the never-ending court actions. But, for the Ambonese who are suffering so terribly, there remains merely a thunderous silence from not only the UN but from all the affiliated organisations which so stridently impress upon us all the

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importance of humanitarian principles. All must stand condemned for such selective inaction - or could it be that the horrors suffered at the hands of the Nazis are considered somehow more important than those being endured even now by the Ambonese?

Another prime example of the remarkably selective attitude of the UN and its supporting NGOs is, of course, the on-going mayhem in Zimbabwe. While the do-gooders of this world, and the strident minorities in Australia, waste an incredible amount of energy and public money in striving to extradite a sick and frail 87 year-old from Melbourne who might or might not have committed crimes during the last War, the madman Mugabe is actively encouraging the torture and murder of white farmers - the very people, incidentally, on whose efforts the entire economy of Zimbabwe relies. Again, the silence from the UN is deafening.

There have been several submissions to the Committee from UN-affiliated organisations, NGOs and lawyers groups and some of them have been, for reasons which escape me, invited to appear as witnesses before the Inquiry in Sydney. As far as I am concerned, any views that they might have one way or another in relation to the Treaty, are irrelevant and should be disregarded. Whether or not our Government ratifies this Treaty, is entirely the concern of the individual citizens of Australia and no-one else - and particularly not those who have a very obvious vested interest in the Statute's ratification.

At this point, I believe it would be helpful to include the list of some of those who have provided the bulk of the current funding for the Coalition for an International Criminal Court. They include: the Ford Foundation; the John D. & Catherine T. MacArthur Foundation; the Open Society Institute; the European Union; and the Paul & Daisy Soro Foundation, together with several governments, individual donors and participating NGOs. Have the Committee Members or the Government taken any time to ascertain the credentials of these organisations and individuals, to satisfy themselves as to their background and objectives?

I suggest that with regard to the European Union, the Committee should certainly be hearing alarm bells. The EU was formed wholly and solely, we were told, for the purpose of facilitating and promoting trade. Why then is this powerful entity becoming involved in other matters which are far removed from the original agenda? I speak, of course, of the announcement at the end of last year that the EU has voted to turn itself into a military power, with its defence ministers pledging troops and equipment to create a 60,000-member force by 2003. This initiative means that there are two million troops under arms in their respective countries. For what possible purpose could this be?

In relation to the USA, there has been some confusion as to the attitude of that nation in relation to the ICC. Former President Clinton maintained almost to the end of his term of office that for the USA to involve herself with the Statute would be detrimental to US troops and for the country generally. However, it has been reported that six hours prior to midnight on New Year's Eve, the former President had a complete change of heart and

authorised the signing of the Statute - ignoring the objections of the American people and the US military, and even whilst expressing certain reservations of his own. Was this eleventh hour act by a less-than-honourable outgoing President committed by him in order to please his international masters, in the hope that he would receive favourable treatment by them now that he has been forced into relative obscurity? No doubt history will reveal this in years to come.

The American people have taken a very definite view. They say that although the treaty is "cloaked in flowery language about bringing justice to the world, the ICC could subject American citizens to the compulsory jurisdiction of an international tribunal of foreign judges with no respect for our most basic Constitutional rights." **They point out that, although the Seventh Amendment to the US Constitution affirms the right to trial by jury, there will be no such right before the ICC. Instead, they say, "foreign judges will decide the fate of Americans."** Further, they say that under the UN-sponsored International Criminal Tribunal for the former Yugoslavia, a forerunner to the ICC, there is no right, as detailed in the Sixth Amendment to the US Constitution, for the accused person "to be confronted with the witnesses" against him. **Instead, the Court has adopted a provision known as Rule 75 which can "allow some witnesses to remain anonymous, even to defendants and their lawyers."**

They also say that, whereas the Sixth Amendment also refers to the right of the accused "to be informed of the nature and the cause of the accusation" against him, the UN-sponsored Yugoslavia tribunal has issued secret or "non-public" indictments. Is this the method to be adopted by the ICC?

Americans express the fear that the ICC - a permanent court sponsored by the UN - could intervene against the US rather than those countries which are true threats to international peace and security and which have the worst human rights records. They say that because the notion of "war crimes" has military significance, it is reasonable to believe that the first targets of the ICC would be American soldiers carrying out the orders of the Commander-in-Chief (exactly the sentiments expressed by the likes of Major-General "Digger" James in Australia).

But in the USA, apart from the concerns of the general public, there are many other expressions of outrage from prominent citizens and politicians. For example, Lee A. Casey, a former Justice Department official who specialises in international law, called Clinton's last-minute move "a shame". **He said that he opposes the creation of the permanent ICC under the auspices of the UN because he believes its powers are too extensive, and that it could subject American citizens to trial without allowing them the rights and protections they are guaranteed by the Constitution.**

Other concerns were expressed by the US Defense Department (Pentagon) which stated that their position has always been clear, they are "against signing (the treaty) and still are."

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But the major criticism has come from Senate Foreign Relations Committee Chairman, Jesse Helms, who issued a press release on the same evening that Bill Clinton performed what is seen as a treacherous act. I believe that it is important for the Committee to read Senator Helms views so I reproduce them here in full, as follows:

"President Clinton's decision to sign the Rome treaty establishing an International Criminal Court in his final days in office is as outrageous as it is inexplicable.

"Two years ago, the President refused to sign the Rome Treaty, citing the threat the Court posed to American service members and officials. At the time, his chief negotiator, Ambassador David Scheffer, told Congress: 'The treaty purports to establish an arrangement whereby US armed forces operating overseas could conceivably be prosecuted by the ICC even if the US has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the US to use its military to meet alliance obligations and participate in multinational operations...'

"Nothing - I repeat, nothing - has changed since then to justify US signature. To the contrary, for two years, the Administration has tried in vain to secure additional protections for American citizens, but was rebuffed at every turn by our so-called allies. The Court still claims today, as it did two years ago, the jurisdiction to indict, try and imprison American citizens, whether or not the US agrees to be bound by the treaty. By signing, the President has effectively given his approval to this unprecedented assault on American sovereignty.

"Today's action is a blatant attempt by a lame-duck President to tie the hands of his successor. Well, I have a message for the outgoing President: This decision will not stand.

"I will make reversing this decision, and protecting America's fighting men and women from the jurisdiction of his international kangaroo court, one of my highest priorities in the new Congress.

"Earlier this year, Senate Armed Services Committee Chairman, John Warner, and I introduced the American Service Members' Protection Act, along with most of the Republican leadership and relevant committee chairmen in both houses of Congress. Our effort was publicly endorsed last month by a bipartisan group of former senior US officials, including, among others, Bush Defense Secretary-designate Don Rumsfeld.

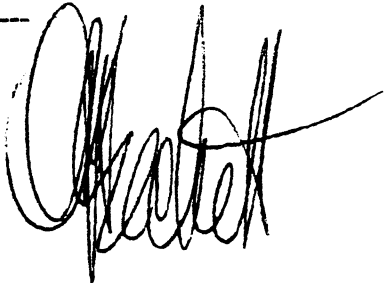
"Come January 20th, as Chairman of the Senate Foreign Relations Committee, I will work with Senator Warner, Secretary Rumsfeld and others in the incoming Bush Administration to deal decisively with the threat posed by this court, and to ensure once and for all that no American is ever tried by this global star chamber."

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I submit that, for our elected government to ratify this Treaty - coming as it does from an international organisation with Communist origins and a most unspectacular record, and backed as it is by suspect NGOs - would not only be the height of folly but will be viewed as treachery by a very large proportion of the Australian people. The Treaty of the International Criminal Court is dangerous, not only because it takes away our sovereign independence, but because both Australian Defence Force personnel and private citizens will inevitably end up before the Court on a trumped-up, politically-motivated charge.

Centenary of Federation celebrations caused many of our political leaders to wax lyrical on the subject of democracy in Australia. I suggest that if the Government is really concerned with "democracy" in this country it will allow the Australian people to make the decision in relation to this Treaty. I therefore challenge the Government to call a referendum on this subject, to be held in conjunction with the federal election at the end of this year.

However, as I do not suppose that we shall be granted the luxury of a referendum, on behalf of myself and all those Australian people who have been denied a voice, I reject this Treaty absolutely and without reservation. Additionally, as my rejection of the Treaty will certainly not end with this Inquiry, all politicians should be mindful of their situation at the election, particularly the Foreign Affairs Minister. My advice to Mr. Downer, as well as to the Prime Minister and the entire Government, would be that they would be most unwise to ignore the wishes of the people on this occasion.



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