Sovereign Union of First Nations and Peoples in Australia
Asserting Australia's First Nations Sovereignty into Governance
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Anderson claims: Independence will enable Aboriginal Nations and Peoples to hold full allodial radical title under our Law and custom.

Ghillar Michael Anderson, Convenor of the Sovereign Union and Head of State of the Euahlayi Peoples Republic said from Brisbane today:

We have recently been involved in two legal proceedings, one in Queensland and one in New South Wales, in respect of 'Traditional Owners' who have acquired their ancient lands, but are expected to pay rates to the local government. The outcomes of these rates cases demonstrate that the Australian courts, at all levels, are not about dealing with justice.

Whether by instruction from the Commonwealth and State Attorneys-General, or by instruction from other sources, the courts are refusing to deal with the substantive issues of land ownership.

The submissions by the shire councils seek orders from the court to have their rates paid in accordance with the Local Government Act.

Our legal defence to the shire councils' demands is twofold:

1. Under English common law how do the shire councils gain a common law right to rate our lands?

2. The State governments' legislation comes from a parliament that cannot establish its *bone fide* at English law, nor at international law, on how they acquired legal and political rights over Aboriginal Peoples' lands, waters, airspace and natural resources.

The legal issue raised in the Peoples' defence is that the land in question was divested to the 'Traditional Owners' under a program founded by a Commonwealth statute, the *Land Fund and Indigenous Land Corporation (ATSIC amendment) Act 1995*, that recognises the lands are acquired and returned to the 'Traditional Owners' to 'help redress dispossession'. This expressed legislative intent of the Commonwealth Government, was influenced by the *Mabo* High Court decision, which caused this legislation to come into existence.

In fact the High Court recognised our proprietary and usufructuary rights and that Aboriginal title survived British sovereignty. Consequently, the High Court accepts in law that Aboriginal title burdens Crown title. Clearly the law in Australia, by this decision, gives us and recognises our title to lands, waters, airspace and natural resources, not as an idealistic notion, but rather a fact in law.

Our rights come from our sovereign and customary title from time immemorial. The

fact the High Court held that Aboriginal title is both proprietary under our customary legal title and the fact that we have usufructuary rights to the land, recognises our allodial radical title.

Usufructuary rights are a proprietary/property right, held in common, to use all the natural resources in and on one's Country. It is the right to enjoyment and the right to gain benefit from the trees, to harvest medicines, gather food, hunt animals, fishing etc. without destroying or damaging the property. It is an allodial title, an absolute property right, which does not originate from a Crown grant.

Therefore the question that we have been putting to the courts in the matter of rates is: How did the Crown take from us our allodial radical title, considering that the leases, issued by the states in New South Wales and Queensland in respect of the lands we continue to occupy are only leases from the Queen? The courts refused to deal with these questions, arguing that the issues we raised had no merit.

The Magistrates Court in Queensland cleverly separated the corporation to whom the Indigenous Land Corporation (ILC) divested the land titles, by viewing the corporation as a single entity under a statute developed and owned by the Crown and said that this entity could sue and be sued under English law. The Magistrate also said that the People, the 'Traditional Owners', were not the corporation, and if the corporation benefits, then it also has obligations. But the bind is that the corporation is the *only* vehicle available in Western law for the Indigenous Land Corporation to divest land to.

Each of our Nations do not have corporate structures and networks of our own. To address this deficiency we must exercise our sovereign rights to create modern facilities under our Law and custom, where title will then belong to each of our Nations. Otherwise we will be forever controlled by a racist tyrannical regime, which will always retain ownership and title under their law. In effect we will never get to own anything if we don't go down this path of independence.

The irony in all of this is that the courts and the parliaments recognise the inalienability of Aboriginal land, yet they retain, by deceit, control over all that we do with our lands and the land titles they issue to those lands are theirs, not ours.

By developing our own parliamentary processes through independence we will be able to hold full allodial radical title under our Law and custom, which takes away the white parliaments and their legal system from ever claiming authority over the said lands.

The magistrate ruled in the shires' favour and ordered costs without considering any of the legal arguments on who really owns the land.

The NSW court dismissed the rates case on a technicality and ignored the affidavit of fact and ordered costs. None of the substantive matters of the defence were dealt with in any way, shape or form.

It is evident that the courts belong to the parliament, who created them, and the judges are themselves appointed by the same system that owns these courts.

Therefore as Aboriginal people we must accept that no matter what arguments we attempt to raise in this country we will not ever have a fair and just hearing, because

the courts are bound by the parliamentary regime that created them. Just read the High Court decision in *Mabo (No. 2)* where the judges' conscience dictated that they must attempt to be impartial and hear this matter as a matter of justice. But when you read the High Court decision all the judges appear to be very apologetic for what they were doing in terms of considering the matter, fully realizing that they were creating an acknowledgement of the wrong in law in respect to the legal skeletal framework that exists in this country to preserve the colonial structure at the expense of the rightful owners:

[at para 43,*Mabo v. Queensland* (No.2) [1992] HCA 23]

> 43. However, recognition by our common law of the rights and interests in land of the indigenous inhabitants of a settled colony would be precluded if the recognition were to fracture a skeletal principle of our legal system. The proposition that the Crown became the beneficial owner of all colonial land on first settlement has been supported by more than a disregard of indigenous rights and interests.

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