



# Institute for Constitutional Education and Research Inc.

A.R.B.N. A0037928M

The permanent Representative of

**Subject: The Institute for Constitutional Education and Research Inc.**

Dear Ambassador,

The Institute was founded by a group of informed and concerned Australians after inputs from thousands of citizens. The common denominator to all complainants was easily identifiable. They had all been subjugated to British colonial law and they had no access to recourse by way of civil rights. On examination it becomes clear that this was occurring because the Politicians and the Courts choose to uphold colonial law, even though it is contrary to all aspects of domestic and international law, so as to preserve their own power base.

Being aware of certain facts of history individuals have, on the basis of a collection of original documents of history, entered into a concerted exercise to cause those assuming the power to govern and adjudicate over the people to bring about the adjustments necessary to correct the situation. However, Politicians continue to make false statements while the Courts refuse to argue the position.

The only recourse now available to the people is through the international community by way of an appeal for the upholding of the Charter of the United Nations with regard to the principle of self determination of all peoples.

Apart from that, all that is left is the application of civil unrest under section 51 of the Charter of the United Nations. Such is the unrest across the nation that it is believed, in some quarters, that this will lead to civil war.

In short, it is known that in 1917 Britain promised Australia independence and that this was effected without fanfare in 1919. Australia became a member of the International Labour Organisation in 1919, membership only being open to sovereign nations. In 1920 Australia became a Member State of the League of Nations, while in 1921 the British Government again declared Australia to be an independent nation. As such, in 1922 Australia refused a request from the United Kingdom for armed assistance with regard to Kemal Ataturk. While in 1923 the British Government again confirmed that, as an independent nation, Australia had the power to make international treaties. In 1926, it was declared that Australia was an independent nation state of the British Commonwealth of Nations and in 1931 the United Kingdom legislated that it no longer had legislative power over Australia. In 1945, Australia became a Member State of the United Nations.

Yet in 1999 we still have the same colonial system that we had in 1900 with the Politicians and judiciary providing verbal and signed allegiance to the Westminster Parliament.

Hundreds of people across Australia have, in their own way, attempted to correct this long standing anomaly using every measure available to them short of actual civil war. For their troubles many of them have had their lives and livelihoods destroyed. It is fair to say they are all angry.

The Institute is about assembling a documented record of both the historical facts and the contemporary attempts of the people to bring about a facility which will permit them to exercise their right to self determination.

It is from this data that the founders of the Institute have chosen to compile and advance an appeal to the international community by way of the United Nations. We present and commend to you the document 'AUSTRALIA the Concealed colony'.

F J Coningham Ph.D.

For the founders and on behalf of all Australians.  
25th August 1999



# Institute for Constitutional Education and Research Inc.

A.R.B.N. A0037928M

26 August 1999

Permanent Representative of

**Subject: Document 'AUSTRALIA the Concealed colony.'**

Dear Ambassador,

The accompanying submission is offered, through you, to the sovereign peoples of your Nation State by, and in the name of, the federated peoples which constitutes the Nation State, the Commonwealth of Australia.

This document amply illustrates that because the Parliament of the United Kingdom has failed to repeal its colonial legislation, '*An Act to Constitute the Commonwealth of Australia*' (UK) 1900, the sovereign people of Australia have been denied, and continue to be denied, their right to self determination.

Instead the Australian people continue to be governed under exactly the same system of government and the same colonial law which was imposed on them by Britain in 1900.

Indeed the document demonstrates that all members of the Australian Parliament and the Australian Senate have sworn and subscribed to an oath of allegiance, not to their own nation, but to Queen Elizabeth II in the sovereignty of the United Kingdom!

It also illustrates that the powers of subjugation inherent in that Act of British law have been assumed by those same Parliamentary representatives as well as the organs of administration which the Parliament has, in turn, created. And that, indeed, through the persistent denial of a right to access civil rights, those powers of subjugation have in fact intensified.

The submission not only exposes the invalidity of the 'Australian Government' it also relates the persistent deceit and chicanery which has been entered into by individuals, both British and Australian, that the true state of affairs may be concealed from the 'ordinary' citizen as well as the world at large.

The document demonstrates that every available domestic avenue for the rectification of the situation has been explored and tested. And that this persistence has even extended to the submission of an application and petition to the International Court of Justice. An application which could not proceed in the light of the United Kingdom's refusal to respond.

It is now apparent that, short of violent action, the last resort open to the Australian people in their quest for self determination lies in an appeal to all Member States of the United Nations to honour their commitment under the Charter.

This submission contains such an appeal along with sufficient information and supporting documentation to permit the pleading of our cause.

This request is not made in the interests of any one section of the Australian community.

The submitted document represents, in a limited way, the collective efforts of many individuals and reflects the collective pain of a nation.

Thus this introductory letter deserves to carry either 19 million signatures or none at all.

But such is protocol that it must be signed. And Peter Batten, being honoured by his fellow researchers, humbly sets his mark below.

**A Submission in Two Volumes  
by the Sovereign People of Australia**

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# **AUSTRALIA**

## **The Concealed colony!**

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**Volume 1 of 2**

**Application and Request  
Annexures 1 to 17**

**The continuing use of BRITISH LAW  
within the SOVEREIGN TERRITORY  
of the INDEPENDENT NATION AUSTRALIA**

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**AUSTRALIA: The Concealed colony!**  
A Submission by the Sovereign People of Australia

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## *Forward*

This submission establishes that those exercising the power to govern over the sovereign people of Australia do so without the authority of those same people. Instead they govern through the application of a current Act of domestic law of the Parliament of the United Kingdom, a power foreign to Australia. This submission also establishes that those individuals exercising this power to govern have all individually sworn and signed an oath of allegiance to a Monarch in the sovereignty of that same foreign power, the United Kingdom.

The authors of this submission, being informed and concerned Australians, believed it reasonable to expect that politicians and members of the Judiciary, after having been confronted with the facts of history and the demands of international law, would have declared it both necessary and urgent, to create and install a valid instrument to bridge the eighty year legal void resulting from the 1919 change in sovereignty over Australia.

However, because of the outcomes of direct approaches to all high offices, including the entire court system, within Australia, it has become abundantly clear that that which would cause the Australian Government to become a legitimate member of the World Community of Governments is unattainable through civil action within Australia.

When it became clear that the necessary adjustments were *"..not matters of municipal law but the law of nations and were not cognisable in (a) court(s) exercising jurisdiction under that sovereignty which is sought to be challenged."* an application was made to the International Court of Justice. Despite the convincing argument presented, the sovereign Australian people submitting the application were not granted standing by that court.

Having absolutely exhausted all other possible avenues of rectification it is now apparent that the only non violent avenue remaining open to the citizenry of Australia lies with an appeal to the international community who, being co-signatories to the Charter of the United Nations, guarantee the Commonwealth of Australia, under Article 2. Paragraphs. 1 and 4, as well as various resolutions, the right to enjoy sovereignty over their affairs. That is, the right to self determination, which is the most fundamental of the principles of the United Nations.

## ***Application and Request***

We, the Sovereign People of Australia, with due respect and humility, approach and present this submission to individual Member States of the United Nations.

This submission demonstrates that the federated peoples of Australia, which constitute the legal entity, the Commonwealth of Australia, is an independent sovereign nation.

This submission demonstrates that the six Australian State Governments as well as the Federal Government of Australia remain extensions of the United Kingdom Government.

This submission demonstrates that those exerting power through these governmental structures, as well as those individuals nominated to act on their behalf, are clearly definable as agents of a power foreign to the Commonwealth of Australia.

This submission demonstrates that individuals within Australia, in concert with the Government of the United Kingdom, have repeatedly acted to conceal the political and legal truth that the sovereign people constituting the Commonwealth of Australia have for almost eighty years been denied the right to self determination.

And finally the content of the correspondence presented in the final annexure (ANNEXURE 35) to this submission clearly and decisively demonstrates that those assuming the role of the Australian Government, even in the face of the most extreme action which the sovereign people may take, refuse to take responsibility by responding in person.

**Aware and informed citizens recognise that the long standing situation has now degenerated to a stage where a breakdown in law and order, with associated violence, is entirely predictable and that urgent corrective action is called for.**

**Having absolutely exhausted all possible domestic avenues of rectification it is now apparent that the only non violent action remaining open to the citizenry of Australia lies with this appeal to individual members of the international community who, being co-signatories to the Charter of the United Nations, guarantee the Commonwealth of Australia, under Articles 2, 4, 6, 102 and 103, as well as various resolutions, the right to self determination.**

**Therefore, a request is made, to all Member States to individually and collectively present and plead our cause before the General Assembly of the United Nations. We ask, through those same Member States, for the General Assembly:-**

**1. to establish, within the territory of Australia, an International Tribunal to investigate, with the view to the confirmation of, the allegations contained in this submission and as a result have all Australian governments at all levels declared, under international law, invalid..**



2. to establish within the territory of Australia an International Criminal Tribunal, to prosecute individuals named in the annexures of this report and any other individuals who have been seen to be aiding and abetting the continuing breach of international law through the application of United Kingdom law within the territory of the sovereign nation State, the Commonwealth of Australia.
3. to implement such other procedures as are seen as necessary to uphold the Charter of the United Nations.
4. to initiate and maintain procedures necessary to ensure the security of people residing, both individually and collectively, in the territory of the Commonwealth of Australia up to and until the successful implementation of a Constitution agreed to by way of a plebiscite conducted amongst all mature Australian citizens.
5. to declare Australia's representative at the United Nations to be *persona non grata* until such time as a representative is nominated by a Government which validly represents the sovereign and federated people of Australia, that is, the Commonwealth of Australia.

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# AUSTRALIA: The Concealed colony!

A REPORT on the continuance of the application of British law within the territory of the independent sovereign nation Australia.

## DEFINITION OF KEY WORDS

**The Act:** Refers to a current Act of the Parliament of the United Kingdom of Great Britain and Ireland entitled - **An Act to Constitute the Commonwealth of Australia.** Royal assent granted on 9th July 1900. (63 and 64 Victoria, Chapter 12)

### **ANNEXURE 1**

**The Constitution:** Is the ninth clause of the Act and deals with the governing organisation of the Commonwealth. Section 128 of the Constitution permits the making of limited changes to the Constitution. The first eight clauses of the Act are conditional on the ninth, the Constitution. The Parliament of the United Kingdom alone has the power to change the first eight clauses.

**Commonwealth of Australia :** Refers to that community of individuals which is the ongoing political entity and the political partnership which has the right to hold supremacy over its affairs.

*"This definition, it will be observed, is a vague and technical one; the dominant words being 'as established under this Act' For the true nature and primary meaning of the expression, the student is required to examine the first six clauses of the Act, which deal with the establishment of the new community. The Commonwealth is not in any way defined or explained by the constitution itself; (The 9th clause of The Act) that deals only with the governing organisation of the Commonwealth.*

*The first observation to be made is that the Commonwealth should not be confounded with the Constitution of the Government. The Commonwealth, as a political entity and a political partnership, is outside of and supreme over the Constitution; it is outside of and supreme over the Government provided by that Constitution. The Government of the Commonwealth, consisting of two sets of legislative, executive and judicial departments, central and provincial, does not constitute the community." (From 'The Annotated Constitution of the Australian Commonwealth.' Quick and Garran (Both instrumental in preparing the draft Constitution submitted to the UK Colonial Secretary) 1901 Edition reprinted by Legal Books Sydney 1995. page 366)*

**Nation :** The community of Australian people which has achieved the right to express sovereignty over its own affairs and destiny.

**State :** Two separate and distinctive meanings will be applied to this word.

1) A community of people occupying a designated territory who have come together in a political union that they may legitimately establish an executive authority to control all matters, including the power to enter into agreements and treaties with other such communities.

2) A colony of the United Kingdom which under clause 6 of '**The Act**' became entitled "A State" and became a part of the Commonwealth.

**Colony :** A community and a territory, which is governed by an authority whose ultimate source of power is traceable to a sovereignty not possessed by that community.

**Subject :** An individual member of a colony

**Citizen :** An individual member of a state as defined under 1) above.(Unless otherwise defined)

**Australia :** An abbreviated description of the community of people comprising the sovereign independent nation State of the Commonwealth of Australia and the designated territory, which under international law, that community controls. (Unless otherwise defined)

**Letters Patent :** The means by which a sovereign appoints a Vice-Regal representative, a Governor General or Governor capable of giving Royal Assent to Acts of Parliament and appointing officers of the Crown ( ministers, judges, magistrates, police officers and members of the armed forces etc..) **Under UK. law the Queen of the United Kingdom can only issue Letters Patent to one of her subjects, a British citizen. And the instructions contained in those Letters Patent may only be applied to British citizens resident in the United Kingdom or its Territories ~ Letters Patent cannot be issued to or applied to foreigners.**

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## GENERAL STATEMENT

There exists a situation in which international law is being offended through the continuing use of what are properly United Kingdom laws within the sovereign independent nation of the Commonwealth of Australia.

On a number of occasions this unsatisfactory situation has given rise to serious problems.

In an attempt to make what is a fundamentally invalid situation workable the government of one, or on some occasions both, countries have taken action through the enactment of subsidiary legislation.

No action has been taken to rectify the underlying defect.

The situation has deteriorated to a level where it has become necessary for Australian citizens to initiate direct action.

### The Nature of the problem

The problem lies in the fact that as a legal entity the '**Commonwealth of Australia**' owed its existence to an Act of the Parliament of the United Kingdom, namely, "**An Act to constitute the Commonwealth of Australia**" (UK) 1900. **ANNEXURE 1**

On the Parliament of the Commonwealth of Australia ratifying the signing of the Treaty of Versailles on October 1 1919 the **Commonwealth of Australia** achieved sovereign independent nation status thus separating itself from the Act of British law, (*An Act to Constitute the Commonwealth of Australia*), the instrument that created it. This new status immediately gained international recognition.

Later both the United Kingdom and Australia became foundation members of the League of Nations and the International Labour Organisation. In so doing both Australia and the United Kingdom accepted the authority of international law.

Amongst other things international law dictates that, in the absence of an international arrangement or a reciprocal treaty, duly registered with, and advertised by, the League of Nations, and later, the United Nations, between Member States, the law of one Member State may not be used within the territory of the other Member State.

No such international arrangement or treaty between the United Kingdom and Australia was so created.

Thus, under international law, when Australia achieved independence the United Kingdom Act which created the legal entity, the '**Commonwealth of Australia**' and provided the Constitution under which its governing organisation was created became, in the legal sense, redundant.

**Change of Sovereignty.** As a consequence valid sovereignty over the **Commonwealth of Australia** moved from the Queen (which actually means the Parliament because, under the terms of the '*Act of Settlement 1701*' the Queen is appointed by, and therefore subordinate to the Parliament) of the United Kingdom to the Australian people. That is to the Commonwealth of Australia.

## **ANNEXURE 2**

A change in sovereignty necessarily results in a break in legal continuity.

The politicians of the day failed to create the legal instrument necessary to bridge the legal void created through this change in sovereignty.

As a result the internationally recognised sovereign nation, the **Commonwealth of Australia** has continued to be Governed as if, in fact, no change had occurred.

The two sets (one State (Provincial) one Federal) of legislative, executive and judicial structures put in place because of the Constitution contained in **the Act** and controlled under the eight conditional clauses of that Act of British law, remain, invalidly, in place.

The States, existing only as administrative structures and being a creation of the Constitution Act ceased, (along with their governments), in the legal sense, to exist when, on gaining independence, that Constitution Act became redundant.

The federation of States along with the federal Government, being products of that redundant Act of British law also, in the legal sense, ceased to exist

### **Effects resulting from a failure to create a legal bridge to accommodate the change in sovereignty**

When sovereignty was achieved by the Australian People **the Act** was not repealed and replaced by a system of government belonging to the Australian people. As a consequence they have continued to be governed under exactly the same colonial law to which they were subjugated prior to independence. It is clear that over time direct day to day British influence has diminished but **the powers of subjugation inherent in the Act** have remained unaltered and have been assumed by Australian Governments, both Federal and State.

### **Australian governments invalid**

Thus from the time that the Commonwealth of Australia became a sovereign nation the individuals assuming power in both the State (Provincial) and Federal governments and within the judiciaries and bureaucracies have done so without being granted the necessary legitimate power, that is, the necessary authority, by the people.

Instead they have continued to accept their appointment to positions of power, in accord with the terms, conditions and restrictions defined in **the Act**, from the Queen of the United Kingdom, that is, the Government of the United Kingdom.

### Every Australian Parliamentary representatives forced to commit act of treason?

Before they may assume their seat in the Australian Parliament ever Member and Senator must swear an oath or affirmation to the Monarch in the sovereignty of the United Kingdom of Great Britain and Ireland. *“There is no provision for any deviation from this constitutional requirement. No Member may take part in proceedings of the House until sworn in.”* (Parliament Research Office, 10th June 1999) **ANNEXURE 3**

The oath and Affirmation appear as the Schedule to clause nine of the Act, the Constitution, but because it lies outside the Constitution it may not be altered under the provisions of section 128 of the Constitution. The only authority which may, perhaps, have the power to alter this condition is, the owners of the Act, the Parliament of the United Kingdom. However, there exists an argument that since the Act is actually legally redundant no authority may initiate any alteration whatsoever.

Attention was drawn to his unsatisfactory state of affairs when, on the 23rd June 1999, the Full Bench of the High Court of Australia ruled that the United Kingdom was a power foreign to Australia. This resulted in that Court ruling that Heather Hill, a candidate elected to the Senate, could not occupy a seat because she maintained an allegiance to that foreign power, the United Kingdom.

**ANNEXURE 4** She had migrated to Australia as an 11 year old child. She had been granted Australian citizenship but had failed to renounce her British citizenship. There is an irony associated with this. Heather Hill's replacement is, by law (S42 of the Constitution), be required to, swear and subscribe allegiance to that very same sovereignty, the United Kingdom!

Situations such as this arise, not only because the nation is attempting to function under the invalid Constitution contained in the Act but also, because at times both the British and Australian governments have attempted to conceal problems through the initiation and invalid implementation of legislation subordinate to, or in addition to, the original Act. Such actions have effectively compounded the invalidity of the governmental structure and the laws being effected in Australia. Even the casual student will realise that the situation has now passed being ridiculous and has become ludicrous.

### Australian residents lose civil rights

Colonial law, by definition, is a law of subjugation. The Act to Constitute the Commonwealth of Australia, being a colonial Act, does not contain any elements of sovereignty or of civil rights. Originally this did not present any undue problems since Australians enjoyed all the privileges of British Citizenship, including entitlement to protection of their civil rights under the full gambit of British law. This state of affairs tended to remain well after the definable date of Australia's independence. But in 1971/2 the situation altered dramatically when the United Kingdom, by way of its 'Immigration and Asylum Act', legislated to declare Australian citizens to be neither British citizens, British subjects, nor British residents and to have no entitlements under British law. However, the Act, devoid of civil rights remained in place with the consequent result that at the level of governmental administration the bureaucracy has become even further inclined to summarily impose on and unduly regulate the actions of the individual

Australian residents. In an endeavour to maintain a facade of legitimacy those controlling the politico/legal system have, when under challenge, repeatedly resorted to inconsistency and irregularity in the application of justice.

By challenging and testing the system of government through the fullest possible use of the legal system which currently exists in Australia, it has become clear that those individuals who have assumed the responsibilities of high office, including the judiciary, will not initiate the actions necessary to ensure that the Australian people wrest from the United Kingdom, complete and rightful sovereignty over their nation.

Many examples exist which illustrate that Australian courts are prepared to compromise truth and justice so that 'current practice' through precedent may be maintained.

### **Sovereign People of Australian submit application to International Court of Justice**

Having demonstrated that because the Australian government does not validly represent the sovereign people of Australia then representation in matters of State has therefore reverted directly to the people, representatives in the name of the Sovereign People of Australia, acting as The State, submitted an Application and Petition to the International Court of Justice at The Hague.

This Application, dated 9th June 1999, was submitted under Article 36 of the Statute as, 'A Matter Between THE SOVEREIGN PEOPLE OF AUSTRALIA and THE PARLIAMENT AND GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.'

#### **ANNEXURE 5**

As this submission was in its final stages of assembly news arrived that, despite the evidence presented establishing that the body masquerading as the Australian Government did not meet the requirements necessary to represent the sovereign people of Australia, that is, the Commonwealth of Australia, the submitters of this matter were not granted standing by the ICJ.

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### **THE AUTHORS of, and THE AUTHORITY SUBMITTING THIS REPORT**

The Commonwealth of Australia is an independent sovereign Nation State and as such is a Member State of the United Nations. As such the United Kingdom cannot be Australia's colonial master. These facts cannot be questioned.

#### **ANNEXURE 6**

However those claiming to represent the State, and hence, possess the power of government of and over the Australian people rely, for that power, on a current Act of domestic law of the Parliament of the United Kingdom of Great Britain (*An Act to Constitute the Commonwealth of Australia*) which, under international law, (Charter of the United Nations Article 2, paras, 1 & 4, and resolutions 2131 (XX) 1965, and 2625 (XXV) 1970, cannot be validly applied in a sovereign independent Australia.

#### **ANNEXURE 7**

Additionally those same individuals have each sworn and subscribed an oath of allegiance to Queen Elizabeth II in the Sovereignty of the United Kingdom of Great Britain and Ireland.

### **ANNEXURE 3**

The conclusion which must therefore be reached is that, under the UN Charter and various Resolutions, valid and legal government does not exist in Australia.

Under such circumstances international law rules that the expression of government and representation of the State reverts directly to the citizenry, the sovereign people.

**Accordingly this report has been prepared and presented by Australian citizens who rightfully represent the sovereign Nation State of the Commonwealth of Australia.**

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### **THIS REPORT CONSTITUTES A COMPLAINT**

That:- **The United Kingdom Government is breaching international law.**

1) Since no legal instrument exists or has existed, under the doctrine known as the law of State succession, to enable the continued unmodified application of British colonial law within the internationally recognised borders of the sovereign Nation State of the Commonwealth of Australia, the Government of the United Kingdom, in consenting to, and assisting the invalid Government of Australia to retain power through the use of unmodified British colonial law and to continue to create what are properly United Kingdom laws for application in a non British sovereignty over non British subjects, is acting in breach of international law.

and that,

**The people of the Commonwealth of Australia are being victimised.**

2) When the invalid and flawed British colonial law being effected on the people of Australia is challenged in the courts created under that same invalid and flawed law, those invalidity entrusted with the power to adjudicate matters contested between individuals and the Government prostrate themselves before the Executive of the Government and through abuse of the very rules, procedures and laws they have undertaken to uphold, deny individuals their right to such natural justice as may be contained within these same laws.

Events have amply demonstrated that these Magistrates and Judges have moved from merely acting as agents for a foreign power who enforce the laws of that power, to behaving as free self-serving individuals who through the abuse of those very same laws vainly attempt to deflect the exposure of the crimes that they, and the government/s that appointed them, have committed against the people of Australia.



## POLITICAL CHRONOLOGY OF AUSTRALIA

**The historical development of government is as follows,**

1. Stage One, 1788 to 1823. Government by absolute decree of the Governor of the Colony.
2. Stage 2 1823 -1842 Governor of Colony assisted by nominated legislature with advisory powers only.
3. Stage 3. 1842-1856 two thirds of legislature elected by freeholders (ie. landowners) plus a few others. Colonial constitutions introduced.

All three eastern colonies attained colonial self government by legislature in 1856 with constitutions for New South Wales, Victoria, and Tasmania created by the Imperial Parliament. South Australia's colonial constitution was passed in South Australia under direction from the British Government. Victoria was divided from New South Wales in 1851 to form a separate colony. Queensland was separated from New South Wales in 1859

4. In the late 1850's the British Government attempted to create a federation. The attempt foundered because of distrust between the colonies.

5. During the 1890's the governments of the six self governing colonies finally agreed to a formula under which federation might occur. A draft Constitution and a proposition to federate after failing to gain approval at a referendum held in 1898 was approved when presented again in 1899. However, the granting of a limited franchise and other factors resulted in only some 7% of the people registering an expressed desire.

6. Draft Constitution transmitted to London, amended by the Colonial Office and enacted by the Imperial Parliament on the 9th July 1900 as 'An Act to Constitute the Commonwealth of Australia'. Section 1 of **the Act** allows a short title to be used "The Commonwealth of Australia Constitution Act" without altering the colonial nature of the legislation. **The Act** was proclaimed on January 1st 1901.

7. *"The Commonwealth of Australia, as a colony of the UK - the word Dominion did not come into use until the passing of a resolution at the 1911 Imperial Conference - had limited internal self government in 1901."* I.M. Cumpston, Emeritus Reader in Commonwealth History, University of London (- History of Australian Foreign Policy 1901-1991).

8. January 22nd 1901, death of Queen Victoria. Under Bill of Rights 1689 and other British law all writs of the Sovereign, including Letters Patent, die with the sovereign. Queen Victoria died on January 22nd 1901. Thus new Letters Patent were required for continuation of the role of Governor General of Australia. Research has revealed that no such document was issued by the new Monarch, the King.

9 1914. King George V declares war on Germany on behalf of Great Britain and its colonies including Australia.

10. October 1, 1918. Turkish troops in Damascus defeated by Anzac forces refuse to surrender to colonial forces. Formal surrender had to wait until British officers arrived several weeks later.

11. The British Dominion of the Commonwealth of Australia, a colony of the United Kingdom, as a member of the British Empire contingent, joins the peace conference at Versailles on 13 January 1919 with Prime Minister William Hughes and his deputy Sir Joseph Cook as its representatives.

12. Supported by the 1917 Imperial War Conference resolution (Article IX) and argument by the President of the United States, Australia, through William Morris Hughes and Sir Joseph Cook, gained independent representation and signed the Peace Treaty of Versailles on 28 June 1919. "*Australia is now a nation by virtue of God and the British Empire*" said Hughes after signing the treaty.

13. Prime Minister Hughes, by way of a motion that the Parliament ratify the Treaty of Versailles, addressed Federal Parliament on 10 September 1919 "*Australia has now entered into a family of nations on a footing of equality. THE PARLIAMENT COMPLETED THIS PROCESS OF RATIFICATION ON 1ST OCTOBER 1919. THUS THE PROCESS OF ESTABLISHING AUSTRALIA'S INDEPENDENCE WAS COMPLETED.*"

14. The actions of Hughes and Cook were written into Australian law through the unanimously approved Treaty of Peace Act of 28th October 1919.

15. On 10 January 1920 the League of Nations becomes part of international law with Australia as one of the 29 original Member States. Thus Australia's sovereign nation status and political independence was, guaranteed in international law under Article X of the League's Covenant..

**The British Dominion, the colony of the Commonwealth of Australia, had ceased to exist in law. The right to self determination of the Nation State, the Commonwealth of Australia had been guaranteed by all League of Nations Covenant signatory Member States.**

16. Sir Geoffrey Butler KBE, MA and Fellow, Librarian and Lecturer in International Law and Diplomacy of Corpus Christi College, CAMBRIDGE, author of "A Handbook to the League of Nations" used as a reference to the League by all nations at that time, pronounced in reference to Article I of the Covenant of the League of Nations, "*It is arguable that this article is the Covenant's most significant single measure. By it the British Dominions, namely, New Zealand, Australia, South Africa, and Canada, have their independent nationhood established for the first time. There may be friction over small matters in giving effect to this internationally acknowledged fact, but the*

***Dominions will always look to the League of Nations Covenant as their Declaration of Independence.***"

17. The League of Nations confirmed Australia's mandated territories of Nauru and German New Guinea on 17 December 1920. The mandates are confirmed in the name of the nation of Australia as a Member State of the League.

18. 1921 Imperial Conference. Prime Minister of the United Kingdom makes declaration:- "In recognition of their services and achievements in the war the British Dominions have now been accepted fully into the comity of nations of the whole world. They are signatories to the Treaty of Versailles and of all other Treaties of Peace; they are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League; in other words, they have achieved full nation status, and they now stand beside the United Kingdom as equal partners in the dignities and responsibilities of the British Commonwealth. If there are any means by which that status can be rendered even more clear to their own communities and to the world at large, we shall be glad to have them put forward at this Conference ."

19. Official seal set on new relationship between British Commonwealth Nations. "In these words, the Prime Minister of Britain, the President of the Conference, set out in clear unambiguous language the concept of a partnership of free nations, all equal in dignity and responsibility, to which the Conference subsequently and officially set its seal." (W.M. Hughes Australian House of Representatives Hansard 30th Sept 1921, p, 1131)

### **ANNEXURE 8**

20. Sir Joseph Cook became the first Australian High Commissioner to be appointed as 'Ambassador' to the United Kingdom. This occurred on 11 November 1921. The United Kingdom further recognised the sovereignty of Australia through the acceptance of his credentials. During the ceremony King George V welcomed "the representative of our ex-colony, the newly independent nation of Australia."

21. G.F.Pearce represented Australia at the Washington conference from 12 November 1921 to 6 February 1922 resulting in the signing of the Treaties of Washington, which were written into Australian law by way of the *Treaties of Washington Act 1922* on 30th August 1922.

22. 1923 Imperial Conference confirmed that individual Member Nations of the Commonwealth of Nations had absolute power to make international treaties.

23. 1924 compulsory voting in Commonwealth elections introduced by way of a private Members Bill.

24. 1926 Inter-Imperial Relations Committee of the 1926 Imperial Conference issued a declaration on the absolute equality of the Dominions with the United Kingdom. This predated Statute of Westminster by 5 years.

25. On 26th June 1945 Australia became a foundation Member State of the United Nations. The Charter of the United Nations written into Australian law via the 'Charter of the United Nations Act 1945', on the 14th September 1945. Australia's sovereign nation status guaranteed by the Charter of the United Nations. (Article 2 paragraphs 1 and 4 plus various resolutions).

26. In the Namibia Case of 1971 (ref 1CJ1971,16.) the International Court of Justice ruled that all Member States of the United Nations have accepted a legal obligation under Articles 55 and 56 of the United Nations Charter to recognise and implement all the human rights obligations in the Charter, the Universal Declaration of Human Rights 1948 and under other UN instruments.

27. 1973 Royal Styles and Titles Act passed by Commonwealth Parliament - reserved for signature by the Queen. This Act removes the status of Queen of the United Kingdom in Australia and substitutes the title "Queen of Australia." As the 1900 Constitution only recognises the Queen of the United Kingdom (Section 2 of the Constitution Act) this effectively removed the Queen from executive power in Australia. The 1973 Act has no power to alter the Constitution as no referendum was held.

28. 1975 On dismissal of Whitlam government by Governor-General Kerr, Speaker Scholes sought direction from the Queen. The reply confirms she no longer has power in Australia.

29. 1984 New Letters Patent issued for appointment of Governor General by the Queen of Australia. Under the Constitution which remains United Kingdom law the representative of the "Queen of Australia" has no executive power or legal position since the Queen of Australia has no legal position in United Kingdom law. And the Constitution only recognises the Monarch existing in the sovereignty of the United Kingdom.

30. 1986 Australia Act passed by Commonwealth Parliament. This Act claims to repeal Acts of a foreign country's parliament, the United Kingdom, in contravention of international law, and Articles 2.(1) and 2.(4) of the United Nations Charter.

The Act passed by the United Kingdom Parliament claims to make laws for application in Australia. This is also in contravention of international law - Articles 2.(1) and 2.(4) of the UN Charter.

31. On 14th February 1986 Queen Elizabeth of the United Kingdom issued separate sets of Letters Patent to Constitute the Office of Governor in the separate States. They were signed by 'Oulton' Permanent Secretary in the Lord Chancellor's Office of the UK Government. **Each of these sets of instructions were designated to come into operation at the same time as the Australia Acts.**

32. In 1997 The British Government stated and has provided documentation with regard to the legislative powers of the Parliament of the United Kingdom.

*"No act of the Parliament of the United Kingdom or act that looks to the Parliament of the United Kingdom for its authority is valid in Australia or its territories in accordance with the laws of the United Kingdom, International Law and the Charter of the United Nations."*

33. When asked specifically about the validity of the following items, the British Government referred to their previous reply as stated above.

(1) The Commonwealth of Australia Constitution Act 1900 UK

(2) The Westminster Act 1931 UK

(3) All Australian "State" constitutions relating to UK legislation

(4) The Australia Bill 1986 UK

(5) Letters of Patent from a British Monarch containing instructions to individuals and purporting to authorise an action to be taken by a representative of the Monarch in a Member State of the United Nations other than the United Kingdom.

34. February, 1998 International Law Commission of the United Nations issues the following ruling:

"No laws of a Member State of the United Nations are valid within the sovereign territory of another Member State unless via a reciprocal treaty agreed between the two member states. The treaty may not infringe the sovereignty of either Member State."

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## **AUSTRALIAN CONSTITUTION IS BRITISH LAW**

**The Commonwealth of Australia Constitution Act was, is, and remains an Act of the Imperial Parliament of the United Kingdom**

### **The creation of the Australian Constitution and Federation**

From about 1850 the United Kingdom had desired for its six Australian colonies, along with their New Zealand colony, to federate. It was considered that such an arrangement would expedite matters of administration, trade and defence.

During the 1890's the governments of the six self governing British colonies occupying the land mass known as Australia finally agreed to a formula under which they were prepared to federate.

After a series of Constitution Convention debates a draft constitution and a proposition to federate was put, by referendum, to the people of the six colonies. The draft of the Constitution Bill was then submitted to the British Colonial Secretary, Joseph Chamberlain.

There exists a perpetuating myth that the Commonwealth Constitution is the "expression of the will of the people", voted for, in a referendum by a majority of the Australian people.

In fact this assertion will not stand examination. Only a small percentage of Australian's actually cast a vote in favour of the draft Constitution (Approximately 10%). The vast majority of the population, ie. most aboriginals, most women and many men were denied a franchise and thus not even permitted to vote in the referendum. Franchise was property based, and individuals were permitted multiple votes, some as many as six. However, it is argued that *"..what matters is less the statistics and more the mechanism. The making of the Constitution was neither representative nor inclusive of the Australian people generally. It was drafted by a small, privileged, section of society. Whole sections of the community were excluded from the Conventions and from voting for the draft Constitution."* ('Human Rights Under the Constitution' George Williams, 1999, Oxford, ISBN 0 19 551059 3, p. 30)

The draft Constitution Bill was duly submitted to Colonial Secretary Chamberlain. History records that the Law Officers of the Crown in England scrutinised the Convention Debates as thoroughly as they did the Australian Constitution Bill and were so alarmed by certain sections of the Bill that they persuaded Chamberlain to insert additional wording to reassert the paramount authority of imperial legislation in Australia.

The Bill was further amended during its passage through the Parliament. In the final outcome, the people of Australia have never voted for or agreed to the final political and legal system under which they are governed. At most they expressed a limited will to federate.

### **Early influence of British commercial and political interests**

It is reported that years later it was revealed that Colonial Secretary Chamberlain was under such enormous pressure from banking, insurance and shipping companies based in the City of London, to preserve their access to Privy Council appeals that he advanced the most controversial of his several amendments while at the same time 'trading off' and amending the wording of others. These manoeuvres served to defeat the 'constitution framers' intention that Australia have the power to enter into international treaties and of prohibiting all appeals from the proposed High Court of Australia to the Judicial Committee of the Privy Council.

It is clear that the British law makers along with commercial interests were not about relinquishing Britain's control over Australia. In point of fact Australian delegates finally found it expedient to go to great lengths to assure these people that the Australian 'constitution framers' had not the slightest intention of limiting the United Kingdom Parliament's paramountcy.

The British law makers through conditional Clause 8 of the Act, "*After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.*" effectively affirmed the assertions of the Australian Constitution-makers while at the same time putting to rest any doubts held by British interests.

The Bill that was finally enacted into law by the United Kingdom Parliament was substantially different to that which was drafted in Australia. The most that can be said for the 1898 referendum is that it was a referendum for the federation of six colonies to form a single colony, voted on by an unrepresentative minority of British Citizens resident in those six Australia colonies.

**The Commonwealth of Australia was to be a British colony.**

**The people of Australia were to remain subjects of the United Kingdom.**

### **The People United : The Commonwealth of Australia created.**

On the 9th July 1900, as the result of the enacting of "*An Act to constitute the Commonwealth of Australia*", by the Parliament of the United Kingdom, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania became united in a Federal Commonwealth under the name of the Commonwealth of Australia. Provision was made for the people of Western Australia to agree, at a later date, to also become united with the other named peoples.

This agreement occurred prior to the date of proclamation which was January 1st 1901. This **unification of the people** of the six colonies occurred under clause 3 of the Act :-

*"It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may at any time after the proclamation, appoint a Governor-General for the Commonwealth."*

Covering clause 2 of the Act, *"The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom".* along with Covering clause 8, *"After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which became a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of the Act."* firmly ended the desires of those who would have Australia become an independent nation.

The following quotations express the clear understanding of the founding fathers of the constitution that they had not sought or been granted independence.

a. Alfred Deakin: *"There is no pretence of claiming the power of peace or war, or exercising power outside our territories".*

b. Samuel Griffith: *"We do not take anything away from the Parliament of Great Britain".*

c. John Forrest: *"If we were founding an independent nation it might be a very appropriate term. That, however, is not the case".* John Forrest was objecting to using the name 'The Commonwealth of Australia'.

d. Henry Parkes: *"Federation is not independence. It is a chance for the colonies more effectively to unite with the Mother-country forming an Empire such as has never yet been formed".*

e. Charles Kingston: *"The Federation must be consistent with allegiance to the Crown and the power of the Imperial Parliament to legislate for the whole of the Empire if it chose".*

f. Dr. J.Quick & R.R. Garran: Authors of "The Annotated Constitution of the Australian Commonwealth" written in 1901. Both played major roles in the actual drafting of the Commonwealth of Australia Constitution Act. The work was reprinted by Legal Books in 1995. The quote is taken from page 367.

*"Imperial Relationship:- By the preamble the Commonwealth is declared to be "Under the Crown;" it is constitutionally a subordinate, and not an independent Sovereign community, or state. But its population is so great, its territory so vast, the obvious scope and intention of the scheme of union are so comprehensive, whilst its political*



*organisation is of such a superior type, that it is entitled to a designation which, whilst not conveying the idea of complete sovereignty and independence, will serve to distinguish it from an ordinary provincial society".*

The source of most of these quotations is a series of documents recording the proceedings of committees in 1900 prior to the dispatch of the draft constitution to the United Kingdom plus "The Annotated Constitution of the Australian Commonwealth" published in 1901.

Yet the myth that the Act of 1900 gave Australia independence remains wide spread and even now continues to be espoused by some within the academic and judicial community.

*"The Constitution is section 9 of an Act of the British Parliament, the Commonwealth of Australia Constitution Act. Australia comprised six colonies in the British Empire when the Constitution was drafted and action by the British Parliament was necessary to give it legal force. ....Australia became an independent nation in 1901. Since the passage of the Australia Acts in 1986, it has been clear that Britain can no longer legislate for Australia, even if Australia asked it to do so. However, no changes have been made to the Commonwealth Constitution to mark these developments." ('The Australian Constitution' ISBN 0 9586908 1 2 , Professor Cheryl Saunders, Deputy Chair of the Constitutional Foundation and Director of the Centre for Comparative Constitutional Studies at the University of Melbourne 1997 Page 17).*

*"On the inauguration of the Commonwealth on 1 January 1901, British hegemony over the Australia colonies ended and the Commonwealth of Australia emerged as an independent sovereign nation in the community of nations. From then, the British Parliament had no legislative authority over Australia." (High Court of Australia, Murphy J, in Kirmani v Captain Cook Cruises Pty. Ltd. (1985) 159 CLR 351 at 383)*

The content of this submission demonstrates that such 'academic' pronouncements are, historical and legal, nonsense. The motives of those promulgating such misinformation must be questioned. This becomes particularly pertinent when it is appreciated that some such individuals are people of 'standing' and influence in the community.

**The federation of the people to form the legal entity the Commonwealth of Australia was an act which united the peoples of the six self governing colonies to form a single self governing colony of the United Kingdom.**

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## AUSTRALIAN CONSTITUTION REMAINS BRITISH LAW

That the Australian Constitution remains a current Act of British law is in fact, confirmed by :

1) The Lord Chancellor, who, in answer to a question, reported to have been July 1995, in the House of Commons stated ; “ *The Commonwealth of Australia Constitution Act (UK) 1900 is an Act of the United Kingdom Parliament. The right to repeal this Act remains the sole prerogative of the Parliament of the United Kingdom. There is no means by which under United Kingdom or international law this power can be transferred to a foreign country or Member State of the United Nations. ....* ” Accuracy of this statement confirmed 11th December 1997. **ANNEXURE 9**

2) The Foreign and Commonwealth Office of the United Kingdom Government has stated in reply (dated 11 December 1997) to written questions directed to the Lord Chancellor : “ *The Commonwealth of Australia Constitution act was enacted in the United Kingdom.....There are at present no plans to repeal the Constitution Act. .... The Government of the United Kingdom would, however , give consideration to the repeal of the Commonwealth of Australia Constitution Act if a request to that effect were made by the Government of Australia. To date no such request has been made.*” **ANNEXURE 9**

3) Office of the Australian Attorney-General (21st October 1997): “ *.....during the course of this century Australia has become an independent nation and the character of the Constitution as the fundamental law of Australia is now seen as deriving not from its status as an Act of British Parliament, which no longer has any power over Australia, but from its acceptance by the Australian people. Nevertheless, the Constitution remains part of an Act of the British Parliament. That Act has not been repealed.* ”. **ANNEXURE10**

### Title of ‘Dominion’ did not alter colonial status

In 1911 Australia, along with Canada, New Zealand and South Africa was given the new title of “Dominion” to distinguish them from Britain’s other smaller colonies. This action by Britain did not alter, in any legal sense, Australia’s colonial status.

This fact was amply illustrated when King George the V, in 1914, declared war on Germany on behalf of Great Britain and its colonies and Australia and Australians found themselves at war.

Thousands of Australians volunteered and went off to fight in the Middle East and Europe. But a large proportion of the population of Irish background, mindful of the activities of British troops in Ireland, protested and refused to volunteer. An attempt by Labor Prime Minister, William Morris Hughes, to introduce conscription via referendum failed on two occasions - in 1916 and 1917. This precipitated a political turmoil which tore the Australian Labor Party apart resulting in Hughes switching sides to become a non

Labor Prime Minister leading a pro-British government in a move which has had profound consequences the reverberations of which are still being felt today.

**Official announcement: Dominions to be granted independence**

While these events were unfolding in Australia the Imperial War Conference of 1917 was taking place in London at which the British Government announced a decision on the basis of the contribution made to the war effort by Australia, Canada, South Africa, New Zealand and Newfoundland to have all five colonies become independent sovereign nations but remaining within “an Imperial Commonwealth”.

It was decided and recorded by resolution IX of this conference that *“The Imperial War Conference are of the opinion that the readjustment of constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the War and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities. They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based on a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth....”*.

Australia, along with the other Dominions were granted separate representation at the Peace Conference of 1919. This not only involved the co-operation of the British Government but also foreign powers. The Imperial War Cabinet agreed and the allied powers accepted that the Dominions should have separate representation equivalent to that of the non-major powers. In addition the Dominions were represented through and by a panel system on the delegation of the British Empire which was one of the five powers “with general interests” who could attend all sessions and committees. Thus, with the approval of the allied powers and the world community of nations the newly emerging nations’ concerns and interests were able to be expressed and considered at the highest levels of mediation.

**Despite the achievement of independent sovereign nation status the Australian Constitution being part of an unrepealed Act of the United Kingdom Parliament remains British domestic law. Both United Kingdom and international law dictate that the right to repeal the Australian Constitution must remain solely with the Parliament of the United Kingdom.**

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## AUSTRALIA AN INDEPENDENT SOVEREIGN NATION

### Australia signs Treaty of Versailles and achieves international personality and becomes a foundation Member State of the League of Nations.

On the 28th June 1919 Australia along with the other Dominions signed the Peace Treaty - the Treaty of Versailles - and, like them, became one of the 29 foundation members of the League of Nations.

*"...at the request from the Dominion governments the full powers to sign were issued by the King on the advice of the Imperial government through the Secretary of State for Foreign Affairs. (Professor Zines, 'The Growth of Nationhood and its Effect on the Powers of the Commonwealth', p, 27 "Commentaries on the Australian Constitution")*

#### **ANNEXURE 11**

The 'Full Powers' documents presented by Prime Minister and Attorney-General, William Morris Hughes and his Deputy and Minister for the Navy Sir Joseph Cook, was signed by the Sovereign and sealed with the Great Seal. After the signing of the Treaty of Versailles there ensued a series of cables from the British government to the Governor-General urging that the resultant treaty be ratified, without delay, by the Australian Parliament. **The process of ratification was not only necessary to give effect to the treaty but also to confirm Australia's status as a sovereign nation which could then act internationally. The process of ratification was completed on 1st October 1919.** (Source of information, Professor O'Brien, Head of the Department of International law, Stanford University. Information confirmed via documents extracted from Parliamentary debates Sept/Oct 1919 and Commonwealth Parliamentary Papers 1920-21)

#### **ANNEXURE 11**

**It is clear that the persistent agitations of the Dominions resulted in their colonial master, Great Britain choosing to use the Treaty of Versailles as the instrument through which the Dominions were to be given full international personality.**

After signing the Treaty William Morris Hughes said, *"Australia is now a nation by virtue of God and The British Empire."*

That this was so was confirmed through the official statement made by Lord Milner, at the time Secretary of War in the United Kingdom Government:- *"The Peace Treaty recently made in Paris was signed on behalf of the British Empire by Ministers of the self-governing Dominions as well as by the British Ministers. They were all equal plenipotentiaries of His Majesty the King, who was the 'High Contracting Party' for the whole Empire. This procedure illustrates the new constitution of the Empire, which has been gradually growing up for many years past. The United Kingdom and the Dominions are partner nations not yet indeed of equal power, but for good and all of equal status."*

In 1919 General Smuts, during the debate in the South African Parliament on the ratification of the Peace Treaty, set out the new status of the Dominions in language no less clear and precise: *"The Union Parliament stands on exactly the same basis as the*

*British House of Commons, which has no legislative power over the Union...Where in the past British Ministers could have acted for the Union (in respect of foreign affairs), in future Ministers of the Union will act for the Union. The change is a far reaching one which will alter the whole basis of the British Empire... We have received a position of absolute equality and freedom not only among other States of the Empire, but among the other Nations of the World."*

While Sir Robert Borden, in his speech to the Canadian Parliament in 1919, set out the position of the Dominion representatives in the Imperial Council Chamber in terms equally clear and comprehensive:- "*We meet here on terms of equality under the presidency of the First Minister of the United Kingdom... Ministers from six nations around the council-board, all of them responsible to their respective Parliaments and to the people of the countries they represent. Each nation has its voice upon questions of common concern; each preserves unimpaired its perfect autonomy, its self-government, and the responsibility to its own electorate.*" (These quotes taken from 'A Splendid Adventure by Right Hon.W.M. Hughes, formally Prime Minister of Australia, London - Earnest Benn Limited 1929 printed in Great Britain - First Edition pp. 234, 235, 236.)

At a slightly later date Australia's status (as well as that of Canada, New Zealand, South Africa and Newfoundland) was totally and thoroughly confirmed when in his opening speech to the 1921 Imperial Conference in London the British Prime Minister Lloyd George said:- "*In recognition of their services and achievements in the war the British Dominions have now been accepted fully into the comity of nations of the whole world. They are signatories to the Treaty of Versailles and of all other Treaties of Peace; they are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League; in other words, they have achieved full nation status, and they now stand beside the United Kingdom as equal partners in the dignities and responsibilities of the British Commonwealth. If there are any means by which that status can be rendered even more clear to their own communities and to the world at large, we shall be glad to have them put forward at this Conference.'*

**In these words, the Prime Minister of Britain, the President of the Conference, set out in clear unambiguous language the concept of a partnership of free nations, all equal in dignity and responsibility, to which the Conference subsequently and officially set its seal.** (W.M. Hughes Australian House of Representatives Hansard 30th Sept. 1921 at p. 11631)

## **ANNEXURE 12**

Australia demonstrated the achievement of this new status by immediately proceeding to become, as an independent sovereign State, a foundation member of the International Labor Organisation. Australia also confirmed the achievement of independence through the signing of Treaties of Peace with Austria, Bulgaria and Hungary, as well as the 1922 Washington Naval Treaties. Each of these Treaties were duly ratified by the Australian Parliament, and subsequently written into Australian law via various Acts of the Parliament. The terms of Washington Disarmament Treaty was acceded to when, on April 12th 1924, H.M.A.S. Australia was sunk with full honours off Sydney Heads.

The capacity of members of the Commonwealth of Nations to act in an unrestrained and fully independent manner was further illustrated on March of 1923 when Canada entered into the 'Halibut Fisheries Treaty' with the United States. Its signatories acted with plenary powers which were issued independently of the King of the United Kingdom, King George V. In 1925 this Treaty was formally registered with the League of Nations under Article 18 of the Covenant.

It is also of interest to note that in 1934 the Union of South Africa expressed its unrestrained independence by choosing to pass its own law removing the right to British citizenship from citizens of South Africa.

### **Australia, in its own right, becomes a colonial power**

The World community of nations further confirmed their acceptance of Australia's new status through the granting, via the League of Nations, of mandates over Nauru and German New Guinea on the 17th December 1920. The mandates were confirmed in the name of the nation of Australia. Thus Australia, in its own right, became a Colonial Power.

The sovereignty of the Australian people was again recognised by its old colonial master, when on the 11th November 1921, Sir Joseph Cook presented his credentials and became the first Australian High Commissioner to the United Kingdom to carry the status of Ambassador. During the ceremony King George welcomed "*the representative of our ex-colony, the newly independent nation of Australia.*"

As this was happening G.F. Pearce was representing Australia at the earlier mentioned Washington conference from the 12th November 1921 to February 1922 resulting in the signing of the Treaties of Washington.

### **Independent nationhood confirmed by contemporary scholar**

On the 14th. July, 1996, investigators working in the archives to the League of Nations , held in Geneva by the Swiss Government, found the original copy of the League of Nations Covenant. Interspersed among the text is a commentary in italics by Sir Geoffrey Butler, KBE Fellow in international law and diplomacy at Corpus Christy College, Cambridge University.

The discovery of the original copy of the Covenant revealed Sir Geoffrey's commentaries had been part of this crucial document from the beginning, not added later as some historians had believed.

Full significance of Article I of the Covenant has never been widely understood by the people of Australia, whose future was irrevocably altered by the Treaty of Versailles of 28th. June, 1919.

Sir Geoffrey Butler's comments went to the heart of the events. His commentary on Article I states: "*It is arguable that this article is the Covenant's most significant measure. By it, the British Dominions, namely New Zealand, Australia, South Africa and*

*Canada have their independent nationhood established for the first time. There may be friction over small matters in giving effect this internationally acknowledged fact, but the Dominions will always look back to the League of Nations Covenant as their Declaration of Independence. That the change has come silently about and has been welcomed in all corners of the British Empire is the final vindication of the United Empire Loyalists."*

**Australian Prime Minister advises Australian people of the achievement of nationhood**

On his return to Australia, fresh from the Peace Conference and the setting of his signature to the Treaty of Versailles, Prime Minister, William Morris Hughes, reported to the people of Australia by way of a motion to have the Parliament approve the Treaty of Peace signed at Versailles. An examination of Hansard reveals that throughout his address to the Australian Parliament he was clearly aware of the magnitude of what had been achieved for and on behalf of the people of Australia :

*"It was abundantly evident to my colleague" (The deputy Prime Minister Sir Joseph Cook) "and to myself, as well as the representatives of other Dominions, that Australia must have separate representation at the Peace Conference. Consider the vastness of the Empire and the diversity of interests represented. Look at it geographically, industrially, politically, or how you will, and it will be seen that no one can speak for Australia but those who speak as representatives of Australia herself. Great Britain could not, in the very nature of things, speak for us. Britain has very many interests to consider besides ours, and some of those interests do not always coincide with ours. It was necessary, therefore - and the same applies to other Dominions - that we should be represented. Not as at first suggested, in a British panel, where we would take our place in rotation, but with separate representation like other belligerent nations. Separate and direct representation was at length conceded to Australia and to every other self-governing Dominion." (It was President Woodrow Wilson of the United States of America who formally proposed that the Dominions represent themselves.)*

*"By this recognition Australia became a nation, and entered into a family of nations on a footing of equality. We had earned that, or, rather, our soldiers had earned it for us. In this achievement of Victory they had played their part, and no nation had a better right to be represented than Australia. This representation was vital to us, particularly when we consider that at this world Conference thirty two nations and over 1,000,000,000 people were directly represented. It was a conference of representatives of the people of the whole world, excepting only Germany, the other enemy powers, Russia, and a few minor nations."*

**ANNEXURE 13**

As set out above, Hughes reinforced this in his September 30th 1921 speech to the Australian Parliament after his return from the 1921 Imperial Conference.

**ANNEXURE 8**

**Terms of Treaty of Versailles including Covenant of the League of Nations written into Australian law**

Hughes motion became a Bill through which his and his deputies actions in establishing the right for Australia to be represented independently and thus become a nation signatory to the Treaty of Versailles and a Member State of the League of Nations was agreed to unanimously by the Australian Parliament.

History clearly records that, in international law, Australia moved from being a British colony/Dominion under the sovereignty of the Monarch of the United Kingdom of Great Britain and Ireland and that this occurred on 1st October 1919. The Covenant of the League of Nations became part of international law on 10th January 1920 with Australia as one of the 29 foundation Member States. Australia's sovereign nation status was guaranteed under article X of the League's Covenant. The Treaty of Versailles and hence the Covenant of the League of Nations was written into Australian law via the Treaty of Peace Act

**ANNEXURE 13**

**Sovereign Nation Status achieved : Legal instrument necessary to bridge break in legal continuity not created : Governmental independence denied.**

All theories of sovereignty hold that any change in sovereignty is necessarily accompanied by a break in legal continuity. Examination of historical records reveal that it is abundantly clear that those individuals directly involved were fully conscious of the momentous events that were precipitating as a result of the 'Great War'.

However what is clear, some 79 years after that event, is that the hard won sovereignty achieved for, and by, the people of Australia has been betrayed. This has occurred through a failure to replace the instrument of government, the Constitution which is the property of the United Kingdom with a constitution which belongs to the sovereign people of Australia. .

The statesmen of the day were clearly aware that the alteration in sovereignty required constitutional adjustments to bridge the resultant break in legal continuity.

Resolution IX of the 1917 Imperial War Conference not only signalled the intention to recognise the Dominions as "autonomous nations" it also recorded "*....The readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the war, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.*"

It was pragmatically evident that when the colony of Australia, became a nation in its own right, the manifest change in sovereignty demanded adjustments to the political and legal structure then in use. The severed dependency on the Parliament, the Judiciary and the Monarchy of the United Kingdom needed to be replaced by a system agreed to, and belonging to, the sovereign people of the Commonwealth of Australia.



During the Parliament, 1919-1922 : *“The most interesting lapsed measure from a political point of view was the Constitutional Convention Bill introduced in the House of Representatives by Hughes in December 1921. At the election, Hughes had pledged both himself and his party to the calling of such a convention, and during 1920 he frequently repeated the promise. The Country Party leader, Earle Page, had likewise frequently advocated such a course.”* The labour party were opposed to a convention maintaining that it should be the parliament which decided constitutional amendment proposals. *“As time went on, the enthusiasm of Hughese's colleagues for constitutional reform rapidly declined. .... When Hughes finally introduced his Bill in December 1921, he was in the humiliating position of having to admit his proposals did not have a friend in the house. The Bill provided for a convention consisting partly of elected members representing the people in the same proportions as they were represented in the House and partly of members nominated in equal numbers by State Parliaments.”* Earl Page and no doubt others, *“while still advocating constitutional reform”* could not agree on the composition of, and manner in which the convention should be conducted. The Bill was introduced at the ‘fag end’ of a session when in any event there was not time to deal with it properly. *“When it became plain that the second reading would be defeated, Hughes withdrew the Bill and announced that the government would instead bring proposals for amending the Constitution directly before the house.* (Geoffrey Sawer page 203 ‘Australian federal Politics and Law 1901- 1929’ Melbourne University Press 1956 Reprint 1972. ISBN 0 522 84033 7)

**As British interests were determined in 1900 not to lose control over political and economic affairs in Australia so was the case in 1919/1920 and there after!.**

History records that in the 1920’s ‘secret’ conservative organisations which held distinctly pro-British interests were established. These included highly influential right wing political organisation as well as paramilitary groups such as the New Guard and the ‘White Army’. These organisations were highly successful in propagandising and manipulating issues to create what now is seen as an unseemly loyalty to all things British. The distortion of historic realities and the manipulation of public opinion had, and still has an enormous effect on the attitudes Australian citizens carry in relation to their country.

While the manipulation of public opinion is in no way unique to Australia, such practice, when applied in conjunction with a statute which requires compulsory voting under a system which is dominated by political parties and is devoid of civil rights results in a form of democracy which is unique to Australia.

Compulsory voting in Commonwealth elections was introduced by way of a private Members Bill on the 31st July 1924. Compulsory voting in all State Government elections was introduced soon after.

### **Australian Parliament confirms date of achievement of sovereign nation status**

Despite the undoubted manipulation of the general populous in relation to internal politics it has been necessary that, those assuming the power to govern over the Australian people, project Australia’s true status into the International arena. That the ‘Government’

has continually recognised Australia's independent sovereign nation status is manifest in the myriad of International Treaties that its plenipotentiaries have signed.

As recently as November 1995 the Australian Parliament through the release of a report by the **'Senate Legal and Constitutional References Committee'** restated the historical events leading up to the achievement of independence. Citing, in the process, the 1917 Imperial War Conference resolution, the 1919 Peace Conference and confirmations arising during the 1923 Imperial Conference. The report states at paragraph 4.13: *"Australia became an independent member of the League of Nations and the International Labour Organisation in 1919. ..."* and at 4.14 *"... This admission to the league and the International Labour Organisation involved recognition by other countries that Australia was now a sovereign nation with the necessary 'international personality' to enter into international relations."* (*Trick or Treaty? Commonwealth Power to Make and Implement Treaties* pp. 48, 49, paras. 4.12, 4.13, 4.15: ISBN 0 642 24418 9 : See extract Annexure 13)

### **ANNEXURE 13**

#### **United Kingdom Government retains control of Australia's affairs**

The Government of Australia remained subordinate to the Government of the United Kingdom. \*

**\* NOTE of explanation :** The Act of Settlement of 1701 removed the automatic hereditary right to succession to the throne of the United Kingdom. The 1701 Act requires that the Monarch be appointed by the Parliament of the United Kingdom. The Act of settlement has not been incorporated into any other Act, has not been repealed and has not been amended. Although originally an English law it was incorporated into UK law by the Act of Union of 1706. In short, the UK Parliament is not subject to the Monarch of the UK, rather the Monarch is subject to the Parliament. Thus, contrary to popular belief, ultimate sovereignty over Australia has always been held by the Parliament of the United Kingdom and not the Monarch of that Kingdom.

It is also significant to note that the Sovereign of the United Kingdom is a British citizen subject to the laws of the United Kingdom and the Treaties entered into by the Parliament and Government of the UK.

However when the Queen is not acting as the Sovereign she is in fact a German citizen by descent from the Princess Sophia, Electress of Hanover. This arrangement was deliberately put in place so that any one of the Princes of Hanover, descended from Sophia, could be anointed to the throne of England/United Kingdom.

Being a British subject and subject to British law the myth that the Monarch is above the law is a straight denial of the mechanisms by which she holds the throne. Sovereignty over the Australian Constitution lies not with the Queen but with the United Kingdom government.

### **ANNEXURE 2**

Concealed forces, in a manner signalled prophetically by Sir Geoffrey Butler through a section of his comment under article XXVI in the same, original copy, of the League of Nations Covenant ensured that Australia continued to be governed as if it had remained a colony of the United Kingdom.

*“There is a chance that the mass of men may rally to a constructive Internationalism which preserves and not destroys the tradition of the nation state. It is wise neither to talk, nor to pitch our hopes, too high. The new diplomacy is bounded with the same limits as the old. The Men who will serve the new diplomacy are certainly not wiser than the men who served the old; they certainly have less experience of international affairs. Capitalist greed and mob ignorance have at times informed the foreign policy of states ever since man gave way to gregarious instinct....”* (emphasis added)

**The historical truth is that the Commonwealth of Australia achieved the status of an independent sovereign nation in 1919. This was confirmed in the Australian Parliament as early as 1919 and as late as 1995.**

**Knowledge of the legal realities and the necessity for adjustments has been concealed from the Australian people.**

**No instrument was created, and no further attempt of any kind was made to bridge the fundamental legal void created when, because of the transfer of sovereignty from the Parliament of the United Kingdom to the People of Australia, the application of British law became invalid.**

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## **THE CONSTITUTION: OFFICIAL ATTITUDES**

### **Current 'official' attitudes towards validity of the Australian Constitution and the Monarchy**

#### **Australia : Foundation Member State of the United Nations : Independent Sovereign Nation status confirmed and guaranteed.**

H.V.Evatt and F.M.Forde represented Australia at the 50 nation United Nations Conference on International Organisation in San Francisco from 25 April 1945 through 26 June 1945. Australia signed the United Nations Charter as a foundation Member State on 26 June 1945. The United Nations Organisation replaced the League of Nations which was terminated in 1946.

**ANNEXURE 14**

Historical facts which clearly demonstrate Australia's achievement of independent sovereign nation status were confirmed in correspondence, from the Acting Director and Deputy to the Under-Secretary-General, Office of the Legal Counsel of the United Nations, Paul C. Szasz, dated 19th December 1997, stating:

*"In relation to your question we note that the Charter of the United Nations entered into force on 24 October 1945 and that Australia was an original Member of the United Nations, having signed the Charter on 26th June 1945. Australia's status as of that date was obviously that of a sovereign State".*

**ANNEXURE 6**

The Charter of the United Nations was enacted into Australian law on the 14th September 1945 by way of the 'Charter of the United Nations Act 1945'

**ANNEXURE 15**

An Australian citizen Dr H.V. Evatt served as the Inaugural Secretary-General of the United Nations.

#### **That the Australian Constitution remains United Kingdom law confirmed.**

It was reported that, in reply to a Parliamentary question in July 1995, the chief law officer of the United Kingdom, the Lord Chancellor, stated:

*"The Commonwealth of Australia Constitution Act (UK) 1900 is an Act of the United Kingdom Parliament. The right to repeal this Act remains the sole prerogative of the Parliament of the United Kingdom. There is no means by which under United Kingdom or international law this power can be transferred to another country or Member State of the United Nations. Indeed, the United Nations Charter itself precludes any such action."*

A request for confirmation of the correctness of the above statement was addressed to the Office of the Lord Chancellor. On 11 December 1997 the Foreign and Commonwealth Office of the United Kingdom Government responded on behalf of the Lord Chancellor:-

*"The statement you mention in your letter is an accurate description of the power of the British Parliament in relation to its own legislation. .... The continuing role of the*

*Australian Constitution Act as Australia's fundamental law is, of course, entirely a matter for Australia. There are at present no plans to repeal the Constitution Act.*

*The Government of the United Kingdom would, however, give consideration to the repeal of the Commonwealth of Australia Act if a request to that effect were made by the Government of Australia. To date no such request has been made.* **ANNEXURE 9**

### **The Authority of the Monarchy in the affairs of Australia**

On 17th July 1997 the Private Secretary to Queen Elizabeth II and the United Kingdom High Commissioner to Australia were asked a series of questions relating to the role of the Monarchy in the affairs of Australia. He chose to ask the Governor-General of Australia to respond. He in turn asked the Attorney-General of Australia to respond. The Attorney-General seems to have avoided responsibility for the answers by having, under the title of the 'Office of the Attorney-General', required a researcher provide the answers over her own signature.

Question "As Queen of Australia does Queen Elizabeth II head an institution which is separate and independent from the Monarchy of the United Kingdom"

Reply " *The Queens role as Queen of Australia is, in legal terms, distinct from her role as Queen of the United Kingdom (as it is distinct from her role as Queen of Canada or of New Zealand.*"

Question: "Under the laws of the United Kingdom is it permissible for the sovereign to issue letters patent to non British subjects?"

Reply: "I am afraid I cannot say whether the Queen, when acting in her capacity as Queen of the United Kingdom, can issue letters Patent to non-British subjects."

Question "I have been advised that the Letters Patent of 1984 were issued by the Queen of Australia under the Great Seal of Australia and that the Keeper of the Royal Seals, Lord Huntington, has advised that only the Queen of the United Kingdom can issue Letters Patent covering the Constitution of the Commonwealth of Australia."

Reply "The Queen of Australia, when acting in relation to Australia, acts on the advice of the Australian Government. I have not seen and therefore cannot comment on any advice from the 'Keeper of the Royal Seals' to the effect that the Queen of Australia cannot issue Letters Patent in relation to the office of the Governor-General on the Advice of the Australian Government." **ANNEXURE 10**

### **The enactment of valid laws under the current system of government in Australia is not possible**

As unsatisfactory as these replies are they do confirm that the Queen of Australia is considered to be a legal entity separate from the Queen of the United Kingdom. It is pertinent to mention that there exists a strong argument that the 'Queen of Australia'

possess no legal authority whatsoever. However, let it be assumed that that office does possess power then, serious questions present themselves when it is pointed out that the Queen of Australia has been created to be the Executive Head of the Government of the Commonwealth of Australia while at the same time the Queen of the United Kingdom remains the Executive Head of the separate States which constitute the Federal Commonwealth of Australia.

The Queen of Australia has been created and installed as the Executive Head of the Commonwealth of which the fundamental law, the Constitution, remains part of a current Act of the Parliament of the United Kingdom which, it has been confirmed, is the only authority which can repeal **the Act**. This is compounded by the fact that the only Monarchy that **the Act**, and thus **the Constitution**, recognises is the Monarchy in the sovereignty of the United Kingdom. The result of this is that the Governor - General who is appointed by a Queen of Australian cannot give assent to any law created under the Constitution..

**Australian Attorney-General's Office ignores implications of international law.**

When questions pertaining to the validity of the continuing application of the Australian Constitution are asked of the Commonwealth Attorney-General the standard reply is :

*"You will be aware that the Commonwealth Constitution was passed as part of a British Act of Parliament in 1900. A British Act was necessary because before 1900 Australia was merely a collection of self-governing British colonies and ultimate power over those colonies rested with the British Parliament.*

*However, during the course of this century Australia has become an independent nation and the character of the Constitution as the fundamental law is now seen as deriving not from its status as an Act of British Parliament, which no longer has any power over Australia, but from its acceptance by the people.*

*Nevertheless, the Constitution remains part of an Act of the British Parliament. That Act has not been repealed."*

**ANNEXURE 16**

When this approach is aligned with the fact that conditional clause 8 of **the Act** states, in part, that the Commonwealth shall be taken to be a **self - governing colony** for the purposes of **the Act**. And clause 2 defines the Act as functioning **in the Monarchy of the United Kingdom** it will be recognised that Australia's chief law officer is either inept or is attempting to be deceptive.

However, when the realities of the consequences deriving from the fact that Australia has, through its 'Treaty of Peace Act 1919' and its 'Charter of the United Nations Act 1945', effectively written International law into Australian domestic law, the reasoning contained in such responses borders on the bizarre.

But when the Attorney-General's continual avoidance of the implications and responsibilities under international law is summarised, as it is in his 27th July 1999 response to the notification of the intent to file this submission requesting an ICT, a policy of sheer contempt is displayed.

### **ANNEXURE 35**

*"..... Australia is now a fully independent nation ..... but this does not mean that Imperial law ceased to have any force....."*

*"... the High Court has decided that international law which affects or creates rights or imposes obligations on individuals is not applicable to Australians unless domestic legislation is passed implementing those agreements which affect or create individual rights or obligations. the Charter of the United Nations Act 1945 (Cth) to which you refer, merely approves the Charter without binding Australians as part of the law of the Commonwealth and therefore cannot be relied upon as a justification for otherwise unjustifiable executive acts."*

Since gaining independence the people of Australia have, at no time, been given the opportunity to accept the Constitution, and even if they had been, being an inseparable part of an Act of the United Kingdom Parliament, there is no way under either British or International law that it could be transferred to a now independent Australia.

Equally the people of Australia have never been provided with an opportunity to devise and agree to be governed under a constitution of their own.

### **Theory of progressive sovereignty fails to resolve dilemma**

This same 27th July letter continues to promote the unsatisfactory, and in many ways dangerous, theory of progressive sovereignty: *"Although Australia is now a fully independent nation, this has been achieved through an evolutionary process throughout this century."*

Callinan J., one of the dissenting judges in 'Sue v Hill' (Annexure 30) commented at paras. 290 and 291: *"The evolutionary theory is, with respect, a theory to be regarded with great caution. .... The great concern about an evolutionary theory of this kind is the doubt to which it gives rise with respect to peoples' rights, status and obligations as this case shows ..... In reality, a decision of this court upon that basis would change the law by holding that, notwithstanding that the Constitution did not treat the United Kingdom as a foreign power at Federation and for sometime thereafter, it may and should do so now."*

Despite such pronouncements, for the purpose of argument let it be assumed that, contrary to all theories of sovereignty, it is some-how possible, as held by the Australian Attorney-General and most High Court Judges, for the colony of the Commonwealth of Australia to gradually and progressively become an independent nation. Then upon such a supposition it may be possible to argue that United Kingdom law could continue to be

used in Australia up to and until the claimed indefinable time that Australia became a sovereign nation.

But at one minute after Australian achieved sovereignty, British, Australian and International law all dictate that the United Kingdom is a power foreign to Australia and that, as such, its colonial laws may no longer be legitimately applied to the Australian people. For the situation to be otherwise constitutes an affront to the principle of independence and self determination.

Clearly at that instant when Australia achieved independence any, and all, Imperial law relating to Australia, including the Constitution Act, become 'frozen' into redundancy. Such law does not even need to be repealed, it just 'dies'.

As Callinan J. points out, a "*..ruling that the evolutionary process is complete ..... would change the law.*" Resulting in adjustments and modifications "*with respect to peoples' rights, status and obligations.*". Clearly, irrespective of when it was that the peoples of Australia achieved independence, at that time they gained the **status** of a free peoples and a **right** to self determination. A right which has been denied by those who were and are, even now, under an **obligation** to effect the principle of self determination on the peoples behalf.

That this has not happened has clearly resulted in a continuing act of political aggression on the people of Australia which is, under Article 2 Paragraphs 1 and 4 of the UN Charter, strengthened by resolutions 2131 (XX) of 21 December 1965 and 2625 (XXV) of 24 October 1970), an offence under international law. **ANNEXURE 17**

**It is abundantly clear that the political and legal system currently operating in Australia is not only aggressive to the sovereignty of the Australian people hut is totally offensive to international law. It is offensive to the right of the Australian people to enjoy self-determination, the fundamental principle on which the United Nations has been established. And since the Charter of the United Nations has been written into Australian law, those assuming power to govern the nation do so in deference to, not only international law, but also the laws of their own land.**

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## THE CONCEALED COLONY

### CONSERVATIVE FORCES AND UNITED KINGDOM GOVERNMENT ACT TO CONCEAL THE CONTINUING APPLICATION OF COLONIAL LAW IN AUSTRALIA

An examination of the correspondence submitted in annexures 9, 10, 11, 20, 16, 22 & 35 will adequately confirm that people assuming high office adopt a policy calculated to confuse issues in an endeavour to conceal the fact that those same people do not legitimately hold office and that, by continuing to exert political influence in the affairs of Australia the United Kingdom Government is in contravention of International law. The correspondence is evasive, misleading and contradictory.

A citizen cannot know of the pressures that may have been applied, or indeed, the reasons for their application, to cause the internal affairs of Australia to be administered in a way which is fundamentally not in the primary interests of the people of Australia.

Through even a cursory examination of historical fact, together with the recent correspondence referred to above, it becomes manifestly clear that the United Kingdom Government continues to choose not to relinquish its control over those assuming the power to govern over the Australian people. Equally those assuming that power have resorted to deceit and deception that they so that may, in turn, retain their positions of power.

**Those assuming the power to govern over the Australian people can rightly be described as agents of a power foreign to Australia. Clearly they too choose not to relinquish power.**

#### Chicanery evident from the beginning

Because it is so significant, the opening speech to the 1921 Imperial Conference in London by the British Prime Minister Lloyd George is again quoted:- *"In recognition of their services and achievements in the war the British Dominions have now been accepted fully into the comity of nations of the whole world. They are signatories to the Treaty of Versailles and of all other Treaties of Peace; they are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League; in other words, they have achieved full nation status, and they now stand beside the United Kingdom as equal partners in the dignities and responsibilities of the British Commonwealth. If there are any means by which that status can be rendered even more clear to their own communities and to the world at large, we shall be glad to have them put forward at this Conference ."*

**ANNEXURE 3** and associated with a declaration issued by the Inter-Imperial Relations Committee at the 1926 Imperial Conference:- *"There is, however one most important element in it which, from a strictly constitutional point of view, has now, as regards all vital matters, reached its full development, we refer to the group of self-governing communities composed of Great Britain and the Dominions. Their position and mutual relation may be readily defined ..They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or*

*external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations”* thus confirming that the absolute equality of the Dominions with the United Kingdom along with their attainment of nationhood was unquestionably understood. That action was not, and is not being taken by the United Kingdom Government through the repealing of existing colonial law points to an unpardonable chicanery which was further extended some 5 years later through the enactment of the Statute of Westminster.

The Statute of Westminster Act 1931 was passed by the United Kingdom Parliament some 12 Years after Australia had become independent. By virtue of the terms of the Covenant of the League of Nations (Article X), Britain could no longer validly enact legislation designed for application within, and to affect the internal affairs of, a sovereign Australia, a foundation Member State of the League

#### **ANNEXURE 18**

The only means whereby respectability could be given to the United Kingdom's continuing interference in the internal affairs of a now independent Australia was through the creation of an international arrangement or treaty in accordance with Article 18 of the Covenant. No such Treaty or Arrangement was made.

That the Parliament of Australia, in 1942, passed The Statute of Westminster Adoption Act 1942 with retrospectivity to 1939, points to a further attempt to give some semblance of respectability to the continuing use of the colonial law, 'An Act to Constitute Commonwealth of Australia (UK) 1900'. This occurred after Australia, without a formal declaration, was at war with Germany, and at the time when a new Prime Minister was declaring war on Japan. Thus it may well be interpreted that, through this action, those exercising power in Australia were acting in the interests of the United Kingdom and in collusion with powers foreign to Australia without possessing the legitimate authority of the Australian people to do so.

The Statute of Westminster Act 1931 (UK) and the Statute of Westminster adoption Act 1942 (Commonwealth) constitute reciprocal arrangement between the United Kingdom and Australia. Because these arrangements were not registered in accordance with Article 18 of the Covenant of the League of Nations or the appropriate Article of the Charter of the United Nations they cannot be presented in an international forum. The same can be said of 'An Act to Constitute the Commonwealth of Australia.'

#### **ANNEXURE 19**

#### **Ex- Prime Minister reveals, UK legislation not in best interests of Australia : Statute of Westminster 1931.**

Ex- Australian Prime Minister, Gough Whitlam, said of this legislation, "*Australia's relations with Britain are regulated by the Statute of Westminster, 1931. The compact originally included not only Australia and Canada but South Africa and Ireland, which have gone their own ways; Newfoundland, which has been incorporated into Canada; and New Zealand, a Unitary Unicameral state. Of those countries only Australia and Canada are still not yet absolutely independent of Britain.....*

*The Statute of Westminster is no longer an instrument of Canadian and Australian independence" (Quite clearly it never was!) "but an impediment to it. It is begging the*

*question to say, as the late British Secretary of State for Foreign and Commonwealth Affairs said in the House of Commons on 21 December 1976, that 'The United Kingdom Government for their part would not stand in the way of any changes that command the agreement of all concerned in Australia.'*

*"It is precisely when our Federal and State Governments do not agree that Britain is involved. ....Under the present system Britain will be brought into Australian controversies whenever State Governments believe that they can use their colonial status to frustrate their own national government. ....Australia should no longer accept the Dominion status that other British colonies have cast off. It would suit the dignity of both British (Britain) and Australia if the Statute of Westminster were repealed."* ('Towards a Republic', chapter 12 in 'The Truth of the Matter' 2nd edn, Penguin, Ringwood, Victoria, 1983, pp. 175-185 )

Ex Prime Minister Whitlam, through his writings seems to make it clear that those assuming high office have knowingly and perhaps willingly been prepared to continue to serve in the interest on the Government of the United Kingdom :*"The standard conservative response to a republic is that the present system is working well enough. It is said that Australia is to all intents and purposes an independent country and a republic would make no useful difference. In fact, to take just one of these points, Australia is not a wholly independent country at all. All state governors, for example, are British officials appointed by a British head of State on the recommendation of the British government; all state honours are awarded in the name of a defunct Empire and by the British Head of State on the recommendations of British ministers; all state courts operating under state laws are subject to veto by a court in another country."* ('The Truth of the Matter' Gough Whitlam pp 181, 182)

While it is that Whitlam wrote this after he was forced from office in November of 1975, he was clearly aware of the anomalous situation which existed. While he was Prime Minister, his Government chose to not rectify the situation but instead to further compound it.

**The chicanery continues:- Persistent attempts to conceal the truth writes the British Monarchy out of Australian law and renders the invalid Constitution dumb.**

**The Royal Styles and Titles Act 1973, obliterated the Australian Constitution.**

The compounding occurred thus: Australia's enrolment as a foundation Member State of the United Nations emphasised its status as a sovereign nation resulting in the questioning of the capacity of the parliament of the United Kingdom to continue to bestow titles on the Queen with respect to Australia as well as the other the ex-Dominions.

Accordingly the UK Government advised the governments of her ex-Dominions that if they wished to retain a link with the Monarchy they had to pass their own legislation since the UK could not legally do so.

Since Australia's fundamental law, the Constitution, remained part of an Act of British law which, under clause 2 of the Act, recognised only the Monarch of the United

Kingdom, Prime Minister Sir Robert Menzies and his government had to either face the truth of the situation and produce a new Constitution or to frame and pass what became the “Royal Styles and Titles Act 1953”.

This Act bestowed on her Majesty the Titles of ‘Queen of the United Kingdom’ and ‘Queen of Australia’. Thus occurred another attempt to squeeze a little more life from a redundant, a dead Act of United Kingdom law.

However, this was frustrated and complicated when, in 1971 the United Kingdom Parliament passed their ‘Immigration and Asylum Act’(amended in 1972 and 1973). The effect of this was to deprive Australians of British citizenship and/or designation as British Subjects. Thus Australians became ‘aliens’ and not entitled to privileges under British law.

It was recognised that the Queen of the United Kingdom could not rule over ‘aliens’. Australians, having lost their British citizenship could no longer be ruled over by the Queen of the United Kingdom.

The government of Australia had no choice but to repeal the ‘Royal Styles and Titles Act of 1953’. In its stead Prime Minister Gough Whitlam and his government drafted and passed the ‘Royal Styles and Titles Act 1973’.

#### **ANNEXURE 20**

This Act specifically removes the title ‘Queen of the United Kingdom’ and simply bestows on Queen Elizabeth the II the title of ‘Queen of Australia’.

However, Section 2 of the Constitution Act reads, “*The provisions of this Act referring to the Queen shall extend to Her Majesty’s heirs and successors in the Sovereignty of the United Kingdom”.* (emphasis added)

The 1973 Act had no power to alter the Constitution as no referendum, in accord with the provisions of section 128 of the Constitution was conducted. And in any case **the Act’s** conditional Clause 2 defining the Monarchy for the purposes of **the Act** and hence the Constitution, as “*..in the sovereignty of the United Kingdom..*” cannot be altered by any authority other than the Parliament of the United Kingdom.

Thus Whitlam’s actions effectively removed the ‘*Queen of the United Kingdom*’ from executive power in Australia. Such an office does not now exist in Australian law.

#### **HOWEVER, (as an ‘aside’):-**

The Royal Assent to this 1973 Royal Styles and Titles Act was applied personally by Queen Elizabeth II on the occasion of a ‘State’ visit to Australia. Serious questions could be raised in relation to this and subsequent actions of this British citizen. For she has assumed a role and continues to exercise powers which she patently did not, and does not possess, to alter and continue to influence the political affairs of the sovereign nation of Australia, as well as the governments of the separate States that constitute the nation.

Despite this 'aside' the fact remains, the Constitution Act and hence the Constitution cannot recognise any Monarch other than the Monarch in the sovereignty of the United Kingdom thus all Australian legislation, if not before, cannot be deemed to be valid after 31st July 1973.

**Quite clearly if it can possibly be argued that it wasn't so before, the Australian Constitution certainly became defunct in 1973! In point of fact Prime Minister Whitlam's action effectively obliterated a Constitution which was already invalid.**

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## THE EXECUTIVE DICTATORSHIP

### The continuing use of an invalid and now defunct Constitution invites people assuming power to adopt dictatorial behaviour: precedent established.

Effectively the Commonwealth of Australia Constitution is a document for dictatorship. For instance it allows an appointed Governor-General to govern without a parliament and with ministers solely appointed by him/her for as long as the Governor-General may wish. The Governor-General is also commander in chief of the armed forces.

That this is so was amply demonstrated in 1975.

In November of that year Australian politics was thrown into turmoil when the Governor-General, Sir John Kerr through a spectacular application of the 'Royal prerogative' dismissed a popularly elected government (albeit by way of the compulsory voting system) and its leader the Prime Minister. Kerr called and installed the minority opposition to govern. When the artificially generated situation which he used as the reason for the dismissal of the Whitlam Government was, within hours, resolved, Governor-General Kerr refused to dismiss the individual he had installed as Prime Minister who was unable to command the respect of the House and reinstate the former Prime Minister in which the House clearly had confidence, as had the Australian people through the election process.

In the aftermath of the November 1975 dismissal of Prime Minister Whitlam and his Government, by Governor-General Kerr, and the subsequent refusal by Kerr to reinstate Whitlam the Speaker of the House, Scholes, sought direction of the Queen. The reply from the Queen's private secretary confirmed she no longer has power in Australia.

*"As we understand the situation here, the Australian constitution firmly places the prerogative powers of the Crown in the hands of the Governor-General as the representative of The Queen of Australia. The only person competent to commission an Australian Prime Minister is the Governor-General, and the Queen has no part in the decisions which the Governor-General must take in accordance with the Constitution."*

The validity of this advice will not stand even cursory examination for the Constitution does not grant prerogative powers to a Governor-General as the representative of "The Queen of Australia". Conditional clause 2 of the Act states, "*The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom*" and since, outside the UK Parliament, no provision exists to alter this clause then all references to the Queen in clause 9, the Constitution, refer to the Queen of the United Kingdom.

(The legality of this whole situation is thrown further into turmoil when it is recognised that Governor - General Kerr was installed under the 29th October 1900 Letters Patent which had been issued by Queen Victoria and which, according to British law were

interred with her after her death on 22nd January 1901. No new Letters Patent were issued until 1984.)

**Offices not in possession of valid authority appoint Australian Governor-General.**

Those 'New' Letters Patent constituting the Office of Governor - General were issued by 'The Queen of Australia' over the signature of the Prime Minister. Neither of these Offices is recognised by **the Act** and hence the Constitution either. Since neither can exert any authority under the Constitution. A Governor-General appointed by the powerless 'Queen of Australia' can only occupy a purely honorary position created within a small elite 'club' involved with power games. "I'll make you the Prime Minister if you will make me the Governor-General"!. **ANNEXURE 21**

So, evidenced once again, is a continuation of the chicanery which has been perpetuated, (for nearly 80 years), in an attempt to give a superficial appearance that the basis for the government of Australia remains valid.

The fact is that, for legislation of the Australian parliament to become law, it must receive 'Royal Assent'. Under normal circumstances this function is delegated to, and carried out by, the Governor-General. The fact that the Governor-General's Office and personal Commission were created, issued and sealed by an authority not recognised by the Constitution then legislation created under that Constitution cannot be given valid assent by a Governor-General appointed in such a manner.

However, the continuing fact is that British interests, from the United Kingdom government down actually maintain control through the agency of a de-facto Australian government which draws its power, via 'the Queen', from the government of the United Kingdom.

In relation to the 1975 'coup' commentators around the World were dismayed at how live a force a claimed royal prerogative could still represent in late twentieth century power politics.

**Constitution powerless to protect convention and democratic principles.**

Robert Lacey asked the question, "*Can these powers with royal origin be credibly exercised by a non - royal nominee?*" and, "*If Governor-Generals are to exercise presidential powers, what role is left for the monarchy?*"

After the event, deposed Prime Minister, Constitutionalist at heart, eminent scholar and lawyer, Gough Whitlam, commented thus:

*"No instructions and no constitutions can long survive if indeed they embody the contradictions, paradoxes and absurdities implied by Sir John Kerr's actions and his interpretation of the Australian Constitution. According to the new dispensation these are things a governor-general can do without his governments advice, irrespective of his government's advice, or against his government's advice:*

*He can dismiss the government. He can appoint and dismiss individual ministers. He can decide which department each minister is to administer. He can dissolve the House of Representatives. If, for instance, the Senate refuses to vote on a Budget, he can dissolve the House of Representatives and if, after a fresh election for the House of Representatives, the Senate still refuses to vote on the Budget, he can again dissolve the House of Representatives. He can call or prorogue both houses. He need not grant a double dissolution although the government asks for it. He need not call a joint sitting if the Houses still disagree after a double dissolution. He need not assent to a bill or to bills passed at any such joint sitting. He need not submit to the electors a bill to alter the Constitution which has twice been passed by one House and rejected by the other, even if he is advised to do so by the government. He need not in fact assent to a bill to alter the Constitution even if it has been approved by the electors. He need not assent to any bills which are passed by both Houses. He could even refuse to take the advice of his minister to send a message to Parliament asking for grants money.*

*The actual events of November 1975, the conduct of Mr Fraser (the leader of the opposition installed as Prime Minister and not dismissed by G-G Kerr when he failed to gain the confidence of the House of Representatives, that is, the House of government.) and his followers, the Chief Justice and State Premiers, ratified by Sir John Kerr and enshrined in the Kerr interpretation of the Constitution, lead inexorably to a collapse of the system."*

Australian people continue to be governed as if they remain colonial subjects. However, because they have been deprived of British citizenship they do not enjoy access to the civil rights protection afforded by way of British law. It follows then that, if they choose to conform to the rule of law and order, they will continue to lack the power to express their rightful sovereignty over their affairs and so be deprived of the power to legitimise the system of government.

**The 1975 incident has demonstrated just how easily the nominal democratic right permitted by the invalid Constitution in use in Australia can be totally abused.**

### **Australian Government rightly described as an Executive Dictatorship**

When all aspects of the events leading up to and following the 1975 dismissal of the popularly elected government (again, albeit via a system of compulsory voting) are examined it becomes clear that Australia, since 1920, has, with the assistance of the government and Monarchy of the United Kingdom, been Governed by Executive Dictatorships. This fact had hitherto been camouflaged behind a charade of democracy.

### **Powerless 'Queen of Australia' appoints honorary Governor-General to assent to laws made under a defunct Constitution**

It would seem that the 1973 Royal Styles and Titles Act in removing the title Queen of the United Kingdom with respect to Australian law together with the 1975 ruling from the Palace on Speaker Scholes request for direction, resulted in Prime Minister Hawke



visiting the Queen at her Balmoral Castle in 1984 that she might sign new Letters Patent for the constitution of the Office of Governor-General.

(Up until that time Governors - General had been appointed under an obsolete set of Letters Patent issued by Queen Victoria and which were not replaced by the Monarch who ascended to the throne on her demise on 22nd January 1901. Nor by any subsequent Monarch)

Thus on the 24th August 1984 New Letters Patent, over the signature of Prime Minister Hawke, were issued under the Great Seal of Australia for appointment of the Governor-General by the "Queen of Australia".

### **ANNEXURE 21**

By this action it could be argued that Queen Elizabeth II contravened conditional clause 3 of **the Act**, which concludes "*But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth*", "The Queen," by definition, (clause 2 of **the Act**) can only be the Queen of the United Kingdom.

In fact it may be argued that the Queen, not being above the law of the United Kingdom (1701 Act of Settlement) has contravened a current law of the United Kingdom.

It may also be argued that, as a British subject, her presumption to grant authority to an individual to call himself a Governor-General and to suggest that through her he has the power to assent to laws and to repeat any or all of those dictatorial/autocratic actions precented by the late Sir John Kerr was, in fact, to commit an offence under international law.

What ever may be projected, what is evident through, both the 1975 reply to Speaker Scholes and the issuing of these Letters Patent, is that Queen Elizabeth II has been, even if unwittingly, a persistent perpetrator of the chicanery which has been necessary to permit the governing of Australia by persons definable as agents of a power foreign to Australia.

**The fact is, the 1984 Letters Patent solved nothing. They only served to further compound the invalidity of the political/judicial system operating in Australia.**

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**A Further analysis to illustrate just how ludicrous the situation has become. Another reason why the Constitution is invalid.**

The United Kingdom law, '*An Act to Constitute the Commonwealth of Australia,*' remained in use after Australia achieved independence.

However, Clause 2 of **the Act** rules that, for the purposes of **the Act** all references to the Queen lie in the **Monarchy of the United Kingdom of Great Britain and Ireland.**

The Anglo-Irish Treaty of December 1921 was ratified on 15th January 1922. It brought into existence the Irish Free State. In 1937 the Irish Free State became the Republic of Eire. Ireland ceased to exist as a legal entity on 15th January 1922.

At that same time the sovereignty of The United Kingdom of Great Britain and Ireland ceased to exist. The establishment of the new sovereignty of the **United Kingdom of Great Britain and Northern Ireland** was formalised through the United Kingdom Parliament's '*ROYAL AND PARLIAMENTARY TITLES ACT 1927*'.

The United Kingdom would constitute an international joke if, in 1999, it masqueraded as still existing in the seventy year defunct Sovereignty of the Great Britain and Ireland!

But in 1999 every Australian Parliamentarian and Senator swears and subscribes an oath to the Monarch in that same seventy year obsolete sovereignty!

If that were the limit of it then the situation might just be tolerable.

But it is not the limit.

The situation is much more serious.

As established, sovereignty over the Commonwealth of Australia lies with the Australian people yet these same people remain subservient to a fundamental law, the Australian Constitution, which makes no reference to these same people. **That fundamental law, the Constitution, exists in, and only recognises the sovereignty of the defunct nation, the United Kingdom of Great Britain and Ireland!**

That this ludicrous scenario can have remained for so long is the result of a mass deception which must rank with the greatest of political manipulations of all time. A manipulation which could only be perpetuated by concealing and misrepresenting the truth.

Such a distortion was evidenced when the High Court of Australia was recently confronted with a question involving this very matter.

The Full Bench of that court ruled in '*Sue v Hill*', at Paras. 53 to 59, that:

*"The result cannot be that, because the present sovereign has never been Queen of Great Britain and Ireland, the Australian Constitution miscarries for that reason..."*

#### **ANNEXURE 30**

To arrive at this decision the High Court relied on an unrelated and unreliable pronouncement of one Lord Reid in the matter of the loss by Irish peers of their right to elect representatives because, *"Ireland as a whole no longer existed politically."*

The contorted and tortured logic, (a process not infrequently entered into by the High Court of Australia), applied in the High Court's striving to uphold and maintain 'current practice' to protect the political process, and hence the Government, which appoints members to the Bench of that court, is nowhere more clearly illustrated than through the three judgements referred to in this submission.

#### **ANNEXURES 28, 30 & 32**

It is clear that the court's pronouncement in this matter is a nonsense. Lord Reid's opinion in the matter cited can not validate the Australian Constitution or any Government or other structure, including the High Court, created under it.

What ever Lord Reid and the High Court might say, the Constitution still does not recognise the 'Queen of Australia', an Office which has no legal or executive power. Nor, in terms of 'black letter law', does it recognise the Queen of the United Kingdom of Great Britain and Northern Ireland! - even taking into account the UK Parliament '*Royal and Parliamentary Titles Act 1927*' which was effected after Australia separated itself from the powers of that Parliament. Thus any outcome from this Act necessarily cannot validly carry over to Australia. If it could, then 'An Act to Constitute the Commonwealth would have, at the time, been amended accordingly!

Whatever may be projected; the Australian Constitution remains part of a current Act of British law subject only, to the defunct Monarchy of the United Kingdom of Great Britain and Ireland.! And as such, under international law, has no legitimate application in the independent sovereign nation, the Commonwealth of Australia. Clearly, on the documented facts, the Australian Constitution DOES "miscarry"!

**As an Act of colonial law the tenor of 'An Act to Constitute the Commonwealth of Australia' is one of subjugation . When the source of authority, the United Kingdom Government, abandoned the direct effecting of its legitimate power this role was assumed by the seven Australian governments. Each now maintain an executive head whose power is not derived from either the United Kingdom government or the Australian people.**

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## **THE FINAL SOLUTION!**

### **THE AUSTRALIA ACTS OF 1986**

#### **ANNEXURE 22**

That the 1984 Letters Patent rectified nothing was directly acknowledged when, in 1986, yet another attempt to disguise, what, if not before, was, by then, a hopeless legal conglomeration.

This attempt was made via what have become known as the ‘**Australia Acts 1986.**’

These Acts, one enacted by the Parliament of the United Kingdom, and one enacted in substantially the same terms, by the Parliament of Australia, each infringe sovereignty. These Acts were not designated a Treaties and duly registered in accordance with the appropriate Article of the Charter of the United Nations. Consequently they may not be presented in any international forum.

The Act passed in Australia goes so far as to state that, contrary to the United Nations Charter Article 2 Paragraphs 1 and 4, (as well as a number of resolutions), it can amend or repeal Acts of the Parliament of the United Kingdom. A sovereignty foreign to Australia.

Apart from the fact that the Australia Act (Commonwealth) is offensive to international law it can have no standing, even if the Australian Constitution could be ruled valid, because it was passed by a Parliament and assented to by a Governor - General who was appointed by the Queen of Australia, an Office not recognised by the Australian Constitution under which the Act was created. That ‘honorary’ Governor-General, in turn, commissioned the Prime Minister and his cabinet and invested the members of that same Parliament that passed the 1986 Australia Act.

#### **Wording of ‘1986 Australia Acts’ constitutes an admission and contains a contradiction.**

The wording contained in the ‘Australia Act’ constitutes a clear admission that colonial law was, at least, up until 1986, being applied in Australia. At the same time that wording also clearly indicates Australia’s sovereign, independent and federal nation status.

The following brief extract is offered as an example:

#### ***“AUSTRALIA ACT 1986***

***An Act to bring Constitutional arrangements affecting the Commonwealth and the States into conformity with the Status of the Commonwealth of Australia as a sovereign, independent and federal nation. ....Termination of restrictions on legislative powers of Parliaments of States***

***3. (1) The Act of the Parliament of the United Kingdom known as the Colonial Laws Validity Act 1865 shall not apply to any law made after the commencement of this Act by the Parliament of a State.***

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a State shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a State shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the State."  
(emphasis added)

These Acts were clearly an attempt to further disguise the use of British law in Australia and effect the appearance of finally eliminating the influence of the United Kingdom Government and use of Imperial law in Australia. They have failed to do so on at least four counts,

- 1) they make no attempt to rescind the plethora of statute and unenacted British law that the courts of Australia have relied, and continue to rely on in their decision making in relation to the actions of ordinary Australian citizens as well as for the justification of actions (particularly in the area of external powers and treaty making) of the Federal Executive, the powers of which are not defined in the Australian Constitution.
- 2) as outlined, the very invalidity of processes used in the creation of these Acts renders them invalid and thus when circumstances demand they may be ruled, in a court of law, to be so, with the result that Imperial law may be applied exactly as it was before their creation.
- 3) they do not repeal the Act of British law, '*An Act to Constitute the Commonwealth of Australia*' the ninth clause of which remains the fundamental law of the Commonwealth of Australia while the eight clause of which continues to define Australia as a colony and the second clause defines the whole Act as functioning under the Monarchy of the United Kingdom of Great Britain and Ireland.
- 4) they fail to replace the Monarch of the United Kingdom of Great Britain and Northern Ireland as Executive Head of the Governments of the six Australian States, the peoples of which constitute the legal entity the Commonwealth of Australia.
- 5) they exist alongside the Letters Patent issued to constitute the Office of Governor of the separate Australian States, on 14th February 1986 under the title of Queen Elizabeth II of the United Kingdom of Great Britain and signed on behalf of the United Kingdom Government by 'OULTON' and designated to come into operation at the same time as the 'Australia Acts'. Thus the 'Australia Acts' did not inhibit the continuing interference in Australia's domestic affairs by the Monarch and the Government of the United Kingdom

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## THE COLONIAL STATES OF AUSTRALIA

### DESPITE THE CREATION OF A 'QUEEN OF AUSTRALIA' AND THE 'AUSTRALIA ACTS', THE GOVERNING OF THE AUSTRALIAN STATES REMAINS ENTIRELY COLONIAL

**A purely titular Queen of Australia rules over the Commonwealth while the Queen of the United Kingdom invalidly rules over the Australian States !**

Concerned and informed citizens are asking is it possible?

The Governors of the Australian States receive their instructions by way of Letters Patent from the Government of the United Kingdom under the name of the Queen of the United Kingdom of Great Britain and Northern Ireland . These Letters Patent were issued on, 14th February 1986, over the signature of Sir Anthony Derek Maxwell Oulton QC, Permanent Secretary in the Office of the Lord Chancellor, and **significantly, they were designated to come into effect at the same time as the 'Australia Acts'**

#### **ANNEXURE 23**

### **New round of chicanery: British influence continues.**

Thus, despite the Australia Acts a new 'round' of direct interference in the internal affairs of Australia by the government of the United Kingdom commenced at exactly the same time as the charade of finalising the extraction of Australia's affairs from British influence became effective.

It is pertinent to introduce here, an area which will be dealt with in detail later. That is that the Australian Court system has become a protector of this invalid system of government and the actions of those individuals and agencies that also would have it maintained.

In a judgement, in *Sue v Hill*, handed down as late as June 23rd 1999 the full bench of the High Court of Australia it was stated at Paragraph 96,

*"The point of immediate significance is that the circumstance that the same Monarch exercises regal functions under the constitutional arrangements in the United Kingdom and Australia does not deny the proposition that the United Kingdom is a foreign power within the meaning of S44(i) of the Constitution. Australia and the United Kingdom have their own laws as to nationality so that their citizens owe different allegiances. The United Kingdom has a distinct legal personality and its exercises of sovereignty, for example in entering military alliances, participating in armed conflicts and acceding to treaties such as the Treaty of Rome, themselves have no legal consequences for this country. Nor, as we have sought demonstrate in Section III, does the United Kingdom exercise any function with respect to the Governmental structures of the Commonwealth or States."* (emphasis added)

#### **ANNEXURE 30**

From the statements and illustrations already presented this is not an accurate description of the situation. Clearly the Constitutions of both the States and the Commonwealth

operate in the Monarchy of the United Kingdom and the Offices of the separate State Governors are constituted directly by the British Government.

It is significant to report that as this submission was in preparation all six State Governors had persistently failed to provide details relating to the execution of their Office. As a last resort formal requests have had to be issued under the Freedom of Information Act 1982.

An answer to a question supplied by the Office of the Australian Attorney-General on the 21st of October 1997 contrasts markedly with High Court judgement cited above: *"The Queen's role as Queen of Australia is, in legal terms, distinct from her role as Queen of the United Kingdom (as it is distinct from her role as Queen of Canada or of New Zealand. The Queen of Australia, acts on the advice of the Australian Government."* And, so by simple deduction the Queen of the United Kingdom acts on the advice of the Government of the United Kingdom!

#### **ANNEXURE. 10**

*"The incongruous nature of a position in which the 'Colonial Laws Validity Act (UK) 1856' still applies to the States but not the Commonwealth was well summed up by Sir Owen Dixon in 1936. Speaking to the Australian Legal Convention in 1936 he referred to the "Illogical course" which had been followed in the application of the statute" (Statute of Westminster 1931. This same illogicality exists in relation to the Australia Acts 1986) "to Australia. As he asserted, this course meant that the State and federal legislatures had been treated "as if they operated in different countries" (Full text of speech contained in 'Jesting Pilate' (1965), p.82) More recently, Professor Geoffrey Sawer has described the position more vehemently as a "grotesque constitutional situation". As he went on, a situation was created in which "the Australian federal government could enjoy the fullest degree of national autonomy, while the States of the federation remained in a legal status of dependent colonialism." ( G. Sawer, 'Australian Federal Politics and Law (Vol. 2) 1929-1949' 1963 , p.33)*

*"The national government's links to Britain are now essentially in an independent relationship with the Sovereign. The Sovereign is the Queen of Australia, in a capacity separate from her relationship to the British polity. Side by side with this, however, the legal panoply of imperial dominion remains embedded in the constitutional workings of the Australian States." ( Alex Castles 'An Australian Legal History' 1992, p 418.)*

The Royal Styles and Titles Act 1973, was specifically designed to remove the 'Queen of the United Kingdom' in Australia law. (a process which effectively obliterated the Australian Constitution, see pp. 32,33,34) while at the same time creating the 'Queen of Australia' to 'rule' over the Commonwealth. Despite this action the Monarchy of the United Kingdom, together with the influence of the United Kingdom Government, remains firmly entrenched in the governing of the States .

#### **Office of State Governors constituted by United Kingdom Government.**

That this is manifestly so is illustrated through an examination of the current instruction by way of Letters Patent to State Governors which were issued in 1986 under: *"ELIZABETH THE SECOND, by the Grace of God of the United Kingdom of Great*

*Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.*

These instructions were issued:-

*“ In Witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster the fourteenth day of February in the Thirty-Fifth year of Our Reign. By Warrant under The Queen’s Sign Manual.*

OULTON

## **ANNEXURE 23**

### **State Governor’s Letters Patent signed by British citizen in the employ of United Kingdom Government**

OULTON is one Sir Anthony Derek Maxwell Oulton, GCB 1989 (KCB 1984; CB 1979); QC 1985 Ma PhD; Permanent Secretary, Lord Chancellor’s Office, and Clerk of the Crown in Chancery, 1982-89; barrister-at-law; Life Fellow, Magdalene College, Cambridge since 1995.

Thus on the 14th February 1986, some two years after the Commonwealth Government attempted to removed reference to the UK Monarchy from the Commonwealth, the United Kingdom Government provided instructions, by way of Letters Patent, to Governors of Australian States (all non British citizens) the federated peoples of which comprise the Commonwealth of Australia.

As far as can be ascertained no new Letters Patent have been issued.

These current instructions are being used by Australian citizens as their source of authority to commission the Premier and Cabinet Ministers and invest members (all Australian Citizens) in the Parliaments of the States. In addition the Governors use their British authority to commission magistrates, judges and police (also non British Citizens) with powers to impose what can properly be described as United Kingdom law on Australian Citizens within the sovereign territory of Australia. .

But the situation possess yet another dimension. *“The monarch in the United Kingdom is a constitutional monarch who occupies the throne by virtue of an Act of the Parliament and bears a title conferred by that Act.”* Sir Kenneth M. McCaw QC and Attorney-General (1965) of New South Wales at page, 15, ‘People Verses Power (ISBN 0 03 900161 X) The United Kingdom Legislature consists of the trilogy, the ‘House of Commons’, the ‘House of Lords’ and the ‘Queen in Parliament’. *“.... As Head of State, the Queen must remain politically neutral, since her Government will be formed from whichever party can command a majority in the House of Commons. The Queen Herself is part of the legislature (as The Queen in Parliament’ she approves legislation), and technically she cannot vote .....*” (official Royal UK Govt. website, emphasis added)

**ANNEXURE 23** The Queen is a composite part of the legislature and since the Act of Settlement 1701 has not enjoyed separate status as an independent legal entity. Therefore the issuing authority of these Letters Patent is clearly definable as the United Kingdom Parliament.



The Monarch and the Monarchs representatives (State Governors/Governor-General) are limited by the **current** legislative power of the Parliament of the United Kingdom which, under domestic and international law, excludes the right to bestow the power of assent to bills within the sovereign territory of the Commonwealth of Australia, a Member State of the United Nations, nor can this power of assent be bestowed by a government which is itself subordinate to Clause 9 of **the Constitution Act** which is current domestic legislation of the Parliament of the United Kingdom.

Power of assent is a 'sovereign power' held by the Australian people alone. Even they cannot bestow this power upon a citizen who is subordinate to the British Parliament. A nation's sovereignty is not negotiable under domestic and international law!

So it is that these Letters Patent were signed in contravention of both United Kingdom and international law (UN Charter Article 2 Paragraphs 1 and 4 which were reinforced by Resolutions 2131 of 1966 and 2625 of 1970).

But there exists yet another anomaly. Even if their creation could be declared valid, under both British and international law, authority via such Letters Patent can only be issued to a British Subject for application in relation to matters involving British Subjects and then only for application in the United Kingdom and/or her dependencies. Australia is not a dependency of the United Kingdom and Australian citizens are not British subjects. The Governor-General and the State Governors are also not British subjects.

**The Letters Patent of 14th February 1986, issued from the United Kingdom, by the United Kingdom Government via the Queen of the United Kingdom are being used against both United Kingdom and International law, by non-British subjects to exert power over Australian citizens within the sovereign territory of the sovereign nation the Commonwealth of Australia, A Member State of the United Nations.**

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## **POLITICAL PROCESS CORRUPTED**

**Thus it must be concluded that:**

**because of the continuing involvement of the government of the United Kingdom in the affairs of Australia the Australian Political and Judicial system has been corrupted**

Because the Australian Constitution is British law it follows that all laws deriving from it are properly British laws.

In addition the United Kingdom Government also continues to permit other United Kingdom statute as well as British unenacted law (common law) to be applied to citizens residing in Australian territory.

A Governor-General appointed by the purely titular 'Queen of Australia' clearly has no executive power or legal position in relation to the fundamental law of Australia, the Commonwealth Constitution, which is, as confirmed, an Act of UK law that only recognises the Monarch in the sovereignty of the United Kingdom.

So, even if it is possible to establish that law created in Australia after the events of 1919/1920 is valid, it will surely be more difficult to establish the validity of law created after Australia become a foundation Member State of the United Nations in 1945. But it is quite impossible to establish that law created in Australia after the 1973 creation of a 'Queen of Australia' has, under international law, any validity whatsoever.

It is evident that, at the federal level, concerted attempts have been made to create a facade to conceal the truth that Australia, since the events of 1919/1920, has effectively been governed as a colony of the United Kingdom.

At the level of the States it is apparent that there exists an untidy state of confusion with differing approaches being made to camouflage that the State Governments quite clearly remain British colonial.

**\*\*Recent failure by State Governors to present public documents pertaining to the Office they occupy flags the development of a potentially dangerous situation.\*\***

One State Governor has provided a copy of his letter of Commission and has been prepared to reveal that it is neither signed nor sealed. He also provided a certified copy of the United Kingdom Letters Patent Constituting his Office.

Another State Governor has revealed that his Letter of Commission was issued by the 'Queen of Australia' while at the same time providing Letters Patent issued by the United Kingdom Government with an added inscription attempting justification gained via the 1986 Australia Acts.

A third and fourth Governor has refused to supply any documentation claiming that the Office of Governor is beyond examination.

Despite intense questioning no revelation has been forthcoming from the two remaining State Governors..

### **ANNEXURE 24**

Since the people have not been consulted in relation to any change that may have been effected it is reasonable to assume that State Governors currently occupy Office

demonstrably without authority. Should this prove to be so an extremely serious and potentially dangerous situation will have been permitted to develop.

**Situation does not serve the best interests of the Australian people**

Because the necessary measures to bridge the legal void, created when the Commonwealth of Australia achieved sovereign independent nation status, were not put in place the situation has remained such that powerful foreign political and commercial interests could continue to influence the State and Federal Governments of the Commonwealth of Australia in relation to all or selected affairs, both domestic and international.

Clearly such a situation does not serve the best interests of the Commonwealth of Australia, that is, the sovereign Australian people.

**Repeated and concerted efforts to conceal the fundamental invalidity of the politico/legal system functioning in Australia has manifestly prohibited the Australian people from exercising their right to self determination. There exists a perception that the situation has degenerated to a level which may precipitate civil unrest. Because of this, it is felt that urgent corrective measures are now obligatory.**

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## **BRITISH STATUTE AND UNENACTED LAW**

**The present corrupt system of government in Australia has developed and evolved as a result of a failure to repeal colonial law and establish a citizen based foundation for the politico/judicial system operating in Australia.**

### **United Kingdom Government Offending International Law.**

Australia continues, either 79 years after achieving and being guaranteed independent, sovereign nation status through becoming a Member Nation of the League of Nations, or at the very least some 54 years after being guaranteed sovereign independent nation status under the Charter of the United Nations, to be governed by a parliament and administered by a bureaucracy which is demonstrably the knowing servant of the Parliament of the United Kingdom of Great Britain and Northern Ireland. The Australian people continue to be governed under exactly the same law that was effected on them by the colonial power, the United Kingdom in 1900.

This being the case, it becomes quite arguable that Great Britain, by not divorcing itself from the affairs of Australia by repealing the Commonwealth of Australia Constitution Act (UK) 1900, is committing an act of political aggression and that those individual Australian citizens continuing to be involved in the creation and the administration of what are, in fact British laws, are committing acts of treason against the sovereign nation of Commonwealth of Australia. This is reinforced by the fact that all Senators and Federal Members of Parliament are required to swear and subscribe an oath of allegiance to the Monarch in the sovereignty of the United Kingdom.

### **ANNEXURE 31**

**United Kingdom law as it is currently being applied within the sovereign territory of the Commonwealth of Australia is largely devoid of civil rights.**

**It is apparent that because of the actions within some areas of the Government tension within sections of the community have reached an intensity which needs to be seen as serious.**

### **Application of British statute and unenacted law in Australia**

Because the Government of the Australian States remain entirely colonial with the Queen of the United Kingdom or her Instructed Governor acting as Executive Head of the respective Governments all aspects of British law may be effected in the States.

This results in Australian citizens being governed by, and subjected to, a judicial system which is not of their making.

### **British Statute law in Australia**

Apart from the fact that the Commonwealth Constitution remains Statute law of the United Kingdom many other Acts of British law continue to have application in the States of the Federation of the Commonwealth of Australia.

Attempts have been made in the States of Victoria and New South Wales to restrict and control the application of British Statute law within those two States.

Alex C. Castles, Professor of Law in the University of Adelaide succinctly describes the situation in his book, 'An Australian Legal History' (1982, edition 1992, ISBN 0 455 19609 5)

*" For more than 50 years the 1922 Act provided the basis for the operation of received British statutes in Victoria. Then in two Acts passed in 1980 the Victorian Parliament updated the earlier legislation and finally made local legislation the sole authority for the continuation of all received British statutory provisions in the State. **The Imperial Acts Applications Act, 1980**, partly repealed the 1922 legislation. Essentially, the 1980 Act repealed all received British statutes" (Which, no doubt, is an action that is offensive to both British and international law) "except where they were retained in force by this statute and the remaining provisions of the Act of 1922. In Part 2 of the 1980 Act, provisions from thirteen British Acts, dating back to the thirteenth century were transcribed and made part of Victoria's own statute law. The British Acts from which these provisions are taken include a re-enacted clause from Magna Carta, the Bill of Rights, the Statute of Monopolies and the Royal Marriages Act. Just prior to the passing of this Act, the **Imperial law and Re-enactment Act, 1980** provided for the inclusion of some other British statutory law into other State enactments such as the **Crimes Act**, and the **Property Law Act**."*

**State Governments chooses, at will, to selectively apply Imperial law!**

*"For the future, s. 6 of the **Imperial Acts Application Act, 1980**, made it possible for the Governor-in-Council to reinstate British legislation if this might be deemed necessary."*

( Again such a provision would seem to be absurd . And the Question must be asked, Under what provision of British and international law may a State of the federal sovereign and independent nation of Australia, selectively choose laws of another sovereign nation, the United Kingdom, to inflict on Australian citizens?)

*The passing of these two Victorian Acts has now brought the southern State more closely into accord with the provision made for the continuation of received British statutes in the New South Wales **Imperial Acts Application Act, 1969**. This Act went further than the Victorian legislation of 1922 in making no provision for the continued operation of the old principles to determine the application of some British statutes. For the future, as now in Victoria under the 1980 legislation, all British received statutes in New South Wales were henceforth to apply under the authority of the State legislature. **Section 5 of the New South Wales Act repealed a number of British statutes which were presumed to be part of received law there. But in some instances substitute provisions in part III of the Act. At the same time, it was laid down that these re-enactment provisions were not to have primacy over other State statutes. In addition, s. 6 of the Act preserved a group of received British statutes where it was considered impractical to enact substitute provision. These include "Constitutional Enactments", such as the **Petition of Right and the Bill of Rights**.***

*As in Victoria, in the case of special contingencies such as the accidental omission of a British law from the terms of the 1969 Act, the operation of British statutory provisions may be revived. This, as the Act lays it down, can be done through proclamation made by the State Governor.”* (pp, 443 and 444, emphasis added)

(It appears the governments of the States of South Australia, Queensland, Western Australia and Tasmania have not enacted legislation to define how British Acts may be applied in those States.)

When examined in conjunction with international law (e.g. UN Charter Article 2, Paragraphs 2 and 4 along with various resolutions) these happenings are extraordinary.

When considered in conjunction with the *Immigration and Asylum Act 1971 (UK)* which removed from Australian citizens all rights under United Kingdom law a situation has been created which has overtones of a form of ‘legal slavery’.

**British law can be applied at will, and is being so applied, to Australian citizens. But these same citizens, being denied British citizenship, in turn, have no general entitlements under it!**

This is offered as an illustration that **those assuming the power to make and inflict laws for application to Australian citizens do so in the full knowledge that Australia continues to be a concealed colony of the United Kingdom.** These same people are, in fact, definable as agents serving, at least, in the legal sense, the interests of a foreign power. After all, State Governors’ current Letters Patent were issued in 1986 under the Monarchy of the United Kingdom of Great Britain and Northern Ireland through the Office of the United Kingdom Government’s Lord Chancellor

With the authority of these instructions the Governors, in turn, commission individuals to form governments, invest that Government’s Ministers as well as commission Senior Bureaucrats, Defence personnel, Magistrates, Judges and Police.

### **The situation in relation to unenacted English Law in Australian Courts**

The continued infliction of British law on Australian citizens is not restricted to the Commonwealth Constitution and other British Statute law. The complete transposition of the British system of the “law of Judges”, the ‘common law’ or un-enacted law is operational in Australia. In many aspects this form of law is even more archaic than that presently applying in the United Kingdom.

Again the following quotes are taken from ‘An Australian Legal History’ (ISBN 0 455 19609 5, 1982, edition 1992) by Alex C. Castles, Professor of law University of Adelaide, who has, in this book, succinctly described the situation.

*“No special provision was made in the Commonwealth Constitution for the operation of English unenacted law in relation to the national government established in 1901.”* (After all Australia remained a colony and so there was no obvious need for this!) *“Besides,*

many areas traditionally regulated by English unenacted law remained under the authority of the States.” (As it does even today) “But the use of unenacted English law has nevertheless sometimes come to be regarded as a source of law which may help in some circumstances to explain and regulate the working of aspects of authority provided for under the Commonwealth Constitution. This has been notably so in relation to the powers exercised by the executive branch of government under the Constitution. But the use of unenacted law in relation to the powers and organs of the national government has not been limited to this. The most visible use of English unenacted law in Australia has been in the courts.” ( p, 493 emphasis added)

### **Unenacted Law considered as no longer suitable for application in Britain continues to be applied unaltered in Australia**

“The received, unenacted law also shared another important characteristic with transplanted statutes. If it was receivable at the time designated for “settlement” its continued operation as part of Australian law was unaffected by later British statutes unless these applied by paramount force. Thus, as principles of unenacted law were modified or excluded altogether in their operation in England by ordinary British statutes this had no legal effect in Australia. The received unenacted principles continued to operate in this country as before. An illustration of the application of this rule is to be seen in 1979 in *State Government Insurance Commission (S.A.) v. Trigwell*. The case involved the continued operation in South Australia of a common law rule which prevented the occupiers of land being made liable for damages inflicted when domestic animals strayed onto public highways. In England this common law principle has been abolished by statute. But the High Court (Australian) indicated the British enactment had no relevance to the continued operation of this common law rule in Australia.

As a consequence of this, there are many principles of English unenacted law which are still applied in parts of Australia which are now unused in England. In those States which do not have *Criminal Codes*, for example, elements of the common law defining offence such as theft and homicide are still applied although they have been abolished in England by statute. *Trigwell’s* case evidences how principles of the law of torts may still be based on unenacted law which has been found wanting in its operation in England and elsewhere. In the same context, parts of the law on defamation in Australia in some States are based on common law rules which have been modified by statute law in Britain. Sometimes principles of unenacted law which may seem quite out of place in the twentieth century may be found to be enforceable in Australia although they have been wholly or partly cast into oblivion in England for many years. This was shown in the decision of the High Court in *Dugan v. Mirror Newspapers Ltd.* in 1978. There a prisoner in a New South Wales goal sought to bring an action in defamation against a Sydney newspaper.

In 1950 he had been sentenced to death before the abolition of capital punishment in that State. The sentence had been commuted subsequently to one of life imprisonment. Nevertheless, because the ancient English common law principle on attainder was held to be still operative in the State, the prisoner was not permitted to seek redress for allegedly libellous material which had been published about him. Under this principle in its old

*form a person convicted of treason or felonies punishable by death lost his civil rights. The injustice of this rule applying in a blanket form was acknowledged in Britain as long ago as 1870. But as no effective steps had been taken to abolish this rule by statute in New South Wales only one of the seven justices of the High Court was prepared to declare that the common law principle should no longer be enforced.*

*Despite the fact that there may be strong acknowledgment that principles like those upheld in **Dugan** may seem no longer to be fair or efficacious the decisions in this and other cases show that Australian Courts have a marked reluctance to alter received unenacted law by judicial action.”.....*

*... “Down to the present, the application of these principles in Australian courts have often maintained a firm and until recent times frequently a slavish adherence to the ways in which this law has continued to be applied by English judges. For many years Australian courts in fact adopted a deliberate policy of working to maintain uniformity between English and Australian judicial decisions in their dealings with unenacted law.” (p, 502 and 503 emphasis added)*

*When Australian courts are faced with a matrix of facts which do not align with a statute or codified law, be it a British or a nominally Australian statute, the judiciary will delve into the thousands of pages of references relating to British unenacted law, for a basis and a justification for a finding. “In practice Australian courts normally have shown little inclination to examine closely the suitability of unenacted law to Australian conditions”. So it is that un-enacted British law may “be held to be lying dormant ready to be applied at some time in the future.” (p, 507 and 506).*

*“ As the Privy Council” (of the Government of the United Kingdom) “ summed up its position, ‘as the population and wealth of the colony increase, many rules and principles of English law, which were unsuitable to its infancy, will gradually be attracted to it.’”*

*“In Trigwell, for example, Chief Justice Barwick declared that the common law did not seem to be changeable by judicial action if the law had been declared by a court of high authority and its declaration of the law at the time was correct. As the Chief justice went on to affirm, the unenacted law was not to be modified or displaced “because the court may think that changes in the society make or tend to make that declaration of the common law in appropriate to the times.” (p, 503 emphasis added)*

*“ In Dugan, Gibbs J. followed an approach along basically the same lines. He claimed that it would be wrong for courts to reject the application of unenacted principles because they might seem to be ‘out of harmony with modern notions’. To do otherwise, so he went on, could lead to ‘a dangerous uncertainty as to matters of fundamental principle’”. (p, 504)*

*“While there has been no general acceptance that there is a common law of the Commonwealth there has, nevertheless, been clear acknowledgment that features of*



*unenacted law can be used in determining the nature of some Commonwealth powers. ....The exercise of the executive powers of the Commonwealth under s. 61 of the Commonwealth Constitution has also been construed at times in the light of the legal position of the Crown at common law. Thus, for example, the legal status within Australia of relationships, including treaties, entered into between the executive arm of the Commonwealth and other countries has been regulated by common law principles.”* (p, 513)

Since the ‘executive Arm of the Commonwealth’ is composed of individuals representing narrow party political and commercial and economic interests it may be assumed that those sharing power use whatever is conveniently available to permit them to continue to successfully exert that claimed power.

The Privy Council of the United Kingdom was, until 1986, Australia’s final court of appeal (and arguably remains so in State matters) the High Court of Australia has increasingly been called on to adjudicate in matters deriving from un-enacted law.

*“With these developments the High Court has moved close to becoming the ultimate arbitrator of unenacted law in Australia. As such, in fulfilling its constitutionally - ordained role as the final court of appeal from the legal systems of the States and Territories (This is a mis-statement for British law makers insisted in 1900 that it be the Privy Council of the United Kingdom that filled this role) it is in a position to apply a uniform approach to the application of unenacted (British) law in Australia.”*

Thus is it illustrated that Australian politicians, justices and academics have failed to make what could be described as a meaningful attempt to provide a system of law which is suitable for application within an Australia which has achieved full international personality.

**It is clear that despite the need to comply with the demands of international law those assuming positions of authority have chosen to ignore their obligation to act in the interests of the sovereign people of Australia choosing instead to continue to apply British colonial law to their fellow countrymen.**

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## **AUSTRALIANS VICTIMISED and EXECUTED**

### **Australian citizens victimised and executed through the application of British law within the sovereign territory of Australia.**

The behaviour of every person residing in Australia is constantly dominated by rules, regulations and laws which are rightly definable as British colonial.

The system as it has evolved has become increasingly authoritarian. Individuals lacking access to any semblance of entrenched civil rights, find themselves being victimised and intimidated, not only by their Parliaments but by bureaucrats, 'inspectors', police, in fact any individual involved in administering regulations generated from within the various administrative departments of government. The allegation of offences and the issuing of substantial 'on the spot fines' by the lowliest of government officials has become common place. While the victim usually has nominal access to contest such incidents through court processes the in-built difficulties render it unfeasible to pursue such a course. And in any event, a pragmatist will be aware that it has proven virtually impossible to achieve a result which favours an appellant

The courts, at all levels, being the products of these parliaments, afford little solace for the individual since they have ruled on numerous occasions that it is not their role to act as legislative bodies but rather to interpret the laws that parliaments have made. And if laws defining human rights have not been made then those rights may be, and have been, denied by the courts even though they may be clearly set down in one or more international statutes. However in an ad hoc manner magistrates occasionally chose to examine British common law to resolve an issue.

Professor George Williams in the conclusion to his chapter on Human Rights in Australia in his book '*Human Rights Under the Australian Constitution*' states:

*"In Australia, Human rights are protected at a number of different levels. This loose and sometimes overlapping web of protection offers significant support for civil liberties and may act as an important legal and political barrier to a government wishing to breach fundamental rights. However, the regime outlined above is inadequate. The protection offered is ad hoc and of limited scope. Brian Burdekin, a former Australian Human Rights Commissioner, commented in 1994 that: 'It is beyond question that our current legal system is seriously inadequate in protecting many of the rights of the most vulnerable and disadvantaged groups in our community.'"*

*The scheme of protection is also unsatisfactory because it is largely unknown. There is little knowledge among Australians of their legal rights. Such Rights are not readily accessible and thus fail to serve the important educative or symbolic function that should underline their operation. Ultimately, they do not effectively protect fundamental freedoms from being abrogated by Australian parliaments. Although an approach based on liberalism might suggest that Australians have largely been free, republican theory suggests otherwise. Australians remain subject to the dominion of their parliaments because, at any time, their representatives could choose to arbitrarily*

*interfere with individual liberty. The Australian people are subjugated by this potential. There is a need for greater protection entrenched in a statutory or constitutional Bill of Rights.*" ('Human Rights Under the Australian Constitution' George Williams, Oxford University Press, 1999, pp. 23 & 24)

### **Bill of Rights defeated**

In 1973 an attempt to bring about a greater protection for fundamental rights in the form of a statutory Bill of Rights which sought to implement the *International Covenant on Civil and Political Rights 1966* in Australia and would have protected a range of rights such as, freedom of expression, freedom of movement, the right to marry and found a family and individual privacy. This Bill met with strong opposition and lapsed. Further attempts were made through 'watered down' Bills in 1983, 1985 and 1986 without success.

As a consequence courts continue to deny citizens access to basic human rights as set out in international Covenants, even ignoring the outcomes of the Namibia findings of the UN. And so it is for the greater part that the courts continue to look to the British system of common law in matters involving human rights. And of this Sir Anthony Mason, former Chief Justice of the High Court has remarked "*..the common law system , supplemented as it presently is by statutes designed to protect particular rights, does not protect fundamental rights as comprehensively as do constitutional guarantees and conventions on human rights ... The common law is not as invincible a safeguard against violations of fundamental rights as it was once thought to be.*" (ibid. p 258).

### **Citizens executed as a result of British law being applied in sovereign Australia**

Historically it has been the courts which are the final arbitrators responsible for the application of the law. It is within those ultra-conservative places that British law has been applied even to the ultimate penalty of death by hanging.

Of the many people who have paid this maximum penalty for offending British law in their own country, Australia, there is, perhaps, non so famous as Ronald Ryan.

*"Ronald Ryan had committed the ultimate crime in the course of his escape, he had killed a warder . . . or had he? The question arose at his trial and it cast a long shadow of doubt about the last man hanged in Australia."* ('Crimes that shocked Australia' Alan Sharpe ISBN 1-863090-18-5, p 348)

Ryan insisted that he had not fired the shot that killed the warder. It seemed likely that the warder had in fact died as the result of a shot fired by a second warder. While found guilty by jury trial, there remains grave doubt that no jurist could help but be influenced by the massive media coverage awarded to the circumstances of Ryan's escape. Nevertheless he was sentenced to death. Those of the public who were opposed to capital punishment worked tirelessly to save Ryan from the gallows. However, *"While crowds gathered outside the gates of Pentridge on February 3, 1967, Ronald Ryan became the last man to be hanged in Australia ..... He was buried in an unmarked grave and, as is*

*the custom, (a British custom) his family were refused permission to attend the burial.*" (ibid p, 352)

Many studies into, and so much has been written in condemnation of this incident in Australian history that it seems unlikely that another person will ever be executed under British law in Australia.

The case of the last woman to be hanged under British law in Australia was surrounded by equally controversial issues. She was "*.. Jean Lee, an attractive 31 year old woman..... who along with her lover, Robert Clayton and their friend Norman Andrews had been found guilty of the murder of a 73 year old SP bookmaker ... in 1949. .. Subverting every code in the conservative post-war female identity, Jean Lee did not fit the mould. She was husbandless and supported herself and her child through work and lovers, eventually spiralling into prostitution and petty crime.... She went to the gallows despite severe doubts about what part she played in the murder, the highly questionable police interrogation procedures of the time, and the controversial High Court and Privy Council decisions. Undoubtedly, however, she died as a warning to other women of the perilous consequences of deviating from the socially approved path of femininity. She had to be sedated and held upright on a chair before being plunged to her death on the 19th February 1951.*" ('Last Woman Hanged In Australia', Random House 1997, ISBN 0091834422).

While this extract is somewhat colourful in its language one should not be distracted from the fact that, in this case, British law right up to the Privy Council of the United Kingdom House of Lords was applied in the destruction of an Australian woman's life within the sovereign territory of Australia. And that this occurred 50 years after Australia ceased to be a colony of the United Kingdom and 6 years after both countries became members of the United Nations. Again the controversy surrounding this incident seems to have ensured that no other female will ever be executed in Australia.

However, others since this time have been subjected to the most severe of penalties often after conviction on purely circumstantial evidence and in the face of sensational media coverage. Most conspicuous amongst these is the case of Lindy Chamberlain who in 1983 was convicted of the murder of her infant child. She was duly sentenced to life imprisonment with hard labour. Despite massive public displays of dissatisfaction with the processes involved and the apparent mis-application of justice, the appeals for clemency and pleas for mercy the mother of three children remained incarcerated. In late 1985 an application for an inquiry into the Chamberlain case was rejected with a statement from the Northern Territory Solicitor-General, "*..the verdict against them can never be set aside*". Three months later, on the production of a piece of the infants clothing, Lindy Chamberlain was abruptly released from prison.

Such was the sustained public outcry in relation to the conduct of the Police and the Justice Department of the Northern Territory that in May of 1986 an inquiry opened. Ten months later the published report stated that "*if all the evidence presented at the inquiry*

*had been given at the trial then the judge would have been obliged to have acquitted the Chamberlains.*"('Crimes That Shocked Australia' p, 407)

Lindy Chamberlain, already freed, was found to be innocent and pardoned (for a crime she had never committed!) in 1987.

**No system of law and order is fault free. However, the continued application of an outmoded colonial system which is devoid of civil rights and which is rightly the property of the foreign power, the United Kingdom of Great Britain and Northern Ireland, is totally and thoroughly offensive to the code of human rights, when applied to residents in an independent Australia. To be punished for offending the agreed laws of a country is one thing. To be punished in ones own country for offending the laws of foreign land is another. For an Australian citizen be punished in Australia after being falsely accused of offending British laws is grotesque in the extreme.**

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## **BRIDGING THE LEGAL VOID**

**Australian citizens argue that the political and legal system operating in Australia is offensive not only to international law but also to itself.**

### **Complaints to individuals claiming to hold positions of power ignored**

Over a protracted period, direct representation on the matters relating to the invalidity of the political and legal system operating in Australia has been made to Prime Ministers, Attorney-Generals, Ministers, elected representatives, heads of departments and other senior bureaucrats, as well as Magistrates and Judges at a federal level over the life of two separate federal governments.

In addition, representation has been made to State (Provincial) Premiers, Ministers, Parliamentary members, Magistrates, Judges, Public Servants and Police

Since no individual claiming the authority to occupy these positions of power has either acknowledged that a problem exists, or has overtly taken action to correct the situation, individual citizens have chosen to argue the matter through the court system as it exists.

**Judiciary required to rule that due to change in sovereignty British colonial law can no longer be inflicted on Australian citizens.**

Through the presentation of the facts of history, fully supported by documentation, courts at all levels have been asked to find that Australia is an independent sovereign nation being governed by laws that are rightly the property of the Parliament of the United Kingdom.

This has been done in the belief that the judiciary, being independent of the Federal and the six State governments were in a position which obliged them to find that the events of history support the simple scenario that the Commonwealth of Australia has undergone a change of sovereignty from the Monarchy of the United Kingdom to the sovereignty of the peoples of the Commonwealth of Australia and that this occurred not later than the 26th June 1945 when Australia became a foundation Member State of the United Nations. And that paragraph 4 of Article 2 of the Charter guarantees the political independence of Australia, a Member State of the United Nations.

And that because a change in sovereignty is necessarily accompanied by an interruption in legal continuity the fundamental law of Australia, the Constitution, being the 9th clause of an Act of the Parliament of the United Kingdom passed in 1900, together with its 8 antecedent clauses, no longer has application in the governing of the sovereign people of Australia.

And that it then follows that since gaining independence, all laws reliant on and originating through the United Kingdom law, the Constitution, are definable as British law and as such may not be effected on Australian citizens resident in internationally recognised Australian territory.

**'Testing' of the validity of the system has occurred across the nation.**

**Appeal before the Master of the Supreme Court of the Australian Capital Territory**  
**ANNEXURE 26**

The Master of the Supreme Court of the Australia Capital Territory, after hearing argument to the contrary, ruled that British Colonial law can continue to be applied to Australian citizens in Australia and its territories. The content of his concluding statement reveals what seems to have become a colluded response to protect and thus perpetuate an invalid and increasingly corrupt legal system.

*"But there is a further, and perhaps more fundamental reason why I must strike out this appeal. Mr Skelton's argument is premised on the invalidity of the Constitution - it is a challenge to the very order under which this Court derives its authority (Spratt v Hermes (1965) 114 CRL 226). A similar fundamental challenge to the source of sovereign authority of this country was rejected by Mason CJ in Coe v Commonwealth (1993) 118 ALR 193 at 200 citing Jacobs J in an earlier challenge (Coe v Commonwealth (1979) 24 ALR 118) where His Honour said of paragraphs in a statement of claim challenging the sovereignty of Australia that they were "... not matters of municipal law but the law of nations and are not cognisable in a court exercising jurisdiction under that sovereignty which is sought to be challenged"*

**Argument put to State Magistrates Court and Appealed to State Supreme Court**

The Annexures presented in support of this section are offered as detailed illustrations of the refusal on the part of the Courts to even consider that a politico/legal defect exists. It will be observed that the judgements in no way reflect the evidence presented.

In the State of South Australia the police prosecutor and the court were advised prior to a hearing that they would be asked to identify the source of the authority that they were using to require the defendant to present himself before the Court. They were also preliminarily presented with an outline of the Constitutional argument that was to be presented.

After refusing to state the source of his authority the presiding Magistrate further refused to hear the argument and so it was presented to the Court in a fully written and documented form.

**ANNEXURE 27**

Without considering that which was presented he proceeded to find, convict and penalise the defendant. It seems no record of proceedings was retained.

On appeal, the Supreme Court Judge also considered it unnecessary to identify the ultimate source of the authority he was claiming to exert. Citing instead Acts of the Parliament that he was aware the defence was to maintain existed without validity. The appeal to this court was presented by way of a fully documented affidavit. This included the written argument presented to the Magistrate.

The Judge prohibited the Crown Solicitor from addressing the Court thus protecting the 'Crown' from having to justify its operation in sovereign Australia by way of cross examination by the appellant.

The Judge proceeded to dismiss the appeal on the grounds that he simply did "*not accede to any of the (Appellants) arguments*". The Judge failed to address any of those arguments or issues presented to him.

A slightly more refined presentation, by way of affidavit, was in a second instance, presented as a defence in another Magistrates Court in the same State. On this occasion the affidavit was served personally on the arresting policeman, Police Prosecutor and the Court Registrar. This was accompanied, in each instance, by a statement that as servants of a foreign power they were acting as individuals and that as such possessed no indemnity if their actions should be challenged at a later date.

The presiding Magistrate questioned the defendant at length and then ruled that nothing has occurred to prevent the application of "*legislation and Letters Patent from the Parliament and Sovereign of the United Kingdom*". The Magistrate then proceeded to hear the prosecutor, find, and penalise the defendant.

On appeal to the Supreme Court of South Australia the presiding judge failed to address the substance of the arguments presented. Instead he proceeded to denigrate the appellant.

In summation he stated, "*In short, the arguments have all the hallmarks of a latter day Mr Justice Boothby. Since the enactment of the Colonial Laws Validity Act in 1865, nothing has occurred which adversely affects the constitutional or legislative competence of the Parliament of South Australia to make laws relating to road traffic and their enforcement in the courts of this State.*"

The appeal was dismissed.

Such decisions ignore the record of all of the historical events as they were presented to the respective courts and as they have been presented within the earlier part of this paper.

Virtually identical reactions have resulted when the Constitutional arguments have presented in the courts of the States of Western Australia, New South Wales, Victoria and Queensland.

**It is of alarm that these 'non-judgements' have subsequently been quoted as precedents that have established that there is no substance to the Constitutional argument being advanced.**

#### **Argument presented to Australia's Highest court - the high Court of Australia**

As the result of an attempt by several individuals to have the issues brought before the Full Bench of the High Court of Australia, Justice Hayne elected to convert five individual cases into a class action. The only common class being that all five Applicants were citizens of Australia. Justice Hayne restricted each Applicant to 10 minutes, in turn, to present their case after which time he retired for some 25 minutes to consider and write



his finding which, it was reported, took him approximately 55 minutes to read. He disposed of the five Applications in a common class judgement. Students of, and researchers into, Australia's status within the international community of nations found the Judge's ruling to be quite amazing.

Apart from the fact that the Judge relied on the legal authority of the United Kingdom government for significant parts of his judgement **he denied that Australia possessed domestic sovereignty while at the same time indicating that it has international sovereignty!**

The Hayne ruling, that international law and treaties have no legal effect in Australia unless they were adopted into domestic law failed to take into account that the two treaties, the Treaty of Versailles, and the Charter of the United Nations, both central to the argument presented, had both been enacted into Australian law. (One via Treaty of Peace Act (1919 -1920 ), the other via the Charter of the United Nations Act (No 32 of 1945).

In his ruling he stated that:

*"...The immediate question is what law is to be applied in the courts of Australia. The former questions about the likelihood of Imperial legislation and international status can be seen as reflecting on whether Australia is an independent and sovereign nation. But they do so in two ways: whether some polity can or would seek to legislate for this country and whether Australia is treated internationally as having the attributes of sovereignty. Those are not questions that intrude upon the immediate issue of the administration of justice according to law in the courts of Australia. In particular, they do not intrude upon the question of what law is to be applied by the courts.*

*That question is resolved by covering cl 5 of the Constitution. It provides:*

*"This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State".*

*It is, then to the Constitution and to laws made by the Parliament of the Commonwealth under the Constitution that the courts must look...."*

## **ANNEXURE 28**

By ruling thus Justice Hayne effectively locked Australia into being a colony. However, even within the Judges amazing ruling and his assertions in relation to the continued use of the British law, **the Constitution Act**, these two Treaties are applicable as both domestic and international law. Their content of international law is in fact Australian law - by whatever premise anyone might wish to adopt. Thus because of the content of these laws, namely, The Treaty of Peace Act and The Charter of the United Nations Act, both made under the Constitution, the Hayne ruling is interpretable as inhibiting, under clause 5 of **the Act**, the application of the very same British law which contains at clause 9, that same Constitution!

An even more astounding facet of this judges ruling is that in his process of reasoning he overruled the Full Bench (including himself) of the High Court of Australia in a

judgement handed down just eight months earlier. By way of this ruling the Court found that Treaty law did, in fact, override domestic law.

On two separate occasions attempts were made to serve writs of certiorari on this judge. In each instance High Court Registries refused to accept them stating, verbally, that decisions of the High Court may not be challenged!

#### **ANNEXURE 29**

It is of great concern that this wholly unreliable judgement is repeatedly quoted and used by lower courts to summarily dismiss defence where constitutional issues are presented. This occurs even despite a later judgement which ruled differently.

#### **Ruling of Full Bench of High Court effectively 'Hayne' overturns ruling**

In finding, on the 23rd June, that the United Kingdom is a power which is Foreign to Australia, the Full Bench of 7 judges effectively negated the Hayne Judgement.

To arrive at this decision the Court, by necessity, needed to approach all aspects of the United Kingdom's relationship and influence in and on Australia's affairs. Students of the issues concerned recognise that like other courts this court went to great lengths to protect 'current practice' by recording their decision in language that is so tortured and contorted that its content is largely meaningless. The full 100 pages may be examined on website [http://www.austlii.edu.au/au/cases/cth/high\\_ct/1999/30.html](http://www.austlii.edu.au/au/cases/cth/high_ct/1999/30.html)

#### **ANNEXURE 30**

Despite the fact that the Constitution Act and the Constitution itself can only recognise and function in the Monarchy of the United Kingdom, the Court chose to rule that the United Kingdom is a foreign power for purposes of interpreting Section 44(i) of the constitution.

#### **ANNEXURE 1**

This decision has, under the same Section 44(i) as well as S44(ii) effectively disqualified all sitting Members in both the Senate and the House of Representatives because every member, under S42 of the Constitution has sworn an oath of allegiance to the Queen in the Monarchy of the United Kingdom of Great Britain and (Northern Ireland). This Oath is contained in the Schedule to the Constitution and is beyond amendment by the Australian Parliament or by the Australian people. It may only be altered by the Parliament of the United Kingdom.

#### **ANNEXURE 31**

Paragraph 96 of this 298 paragraph judgement is sufficient to illustrate the alarming inconsistency in interpretation for which the High Court is noted.

*"The point of immediate significance is that the circumstance that the same monarch exercises regal functions under the constitutional arrangements in the United Kingdom and Australia does not deny the proposition that the United Kingdom is a foreign power within the meaning of s44(i) of the Constitution. Australia and the United Kingdom have their own laws as to nationality so that their citizens owe different allegiances. The United Kingdom has a distinct legal personality and it exercises of sovereignty, for example in entering military alliances, participating in armed conflicts and acceding to treaties such as the Treaty of Rome, themselves have no legal consequences for this country. Nor, as we have sought demonstrate in Section*

**III, does the United Kingdom exercise any function with respect to the Governmental structures of the Commonwealth or States.”** (emphasis added)

The Court ruled that Australia, like the United Kingdom enjoys full sovereign status, but both sovereignties exist in the same monarchy! while citizens of each nation have different allegiances!

There is little doubt that the High Court, like State courts, has become an extension of the political system. This Full Bench decision had the result of preventing a successful candidate in a Senate election from taking a seat in the Senate of the Australian Parliament on the grounds that when she had taken out Australian citizenship she had not renounced her United Kingdom citizenship. She was a member of a newly established political party whose modus operandi has been to attack and expose the corruption and malpractice which has developed within the long established political parties.

**High Court of Australia Contradicts itself in consecutive Judgements.**

In the very next High Court Judgement, Justice Hayne, a member of the Full Bench which handed down the judgement mentioned above, yet again, contradicted himself and his fellows by ruling that laws applied in Australia must satisfy the conditions set down by the parliament of the United Kingdom. That is, he again ruled that Australia does not enjoy domestic sovereignty! These examples effectively illustrate that, no matter what the cost to truth, justice, and logic, courts at all levels deliver findings that ensure that the established system is maintained irrespective of any and all international illegalities involved.

**ANNEXURE 32**

To protect the political system that directly appointed them, Judges sitting in Australia’s highest Court, the ‘High Court of Australia’ have debased that Court by selective evaluation of evidence presented thus resulting in illogical and even irrational decisions. The only conclusion that can be drawn is that it is considered more important to protect the existing political system through maintaining ‘current practice’ than to dispense truth and justice.

**Attorney-General condones breach of international law**

Annexure 33 contains an exchange of correspondence involving the Federal Attorney-General, who is the ultimate protector of law in the Commonwealth of Australia,. Through this exchange it is possible to interpret that the Federal Government is prepared to condone the committing of offences, against both domestic and international law, by the nations courts, rather than face the invalidity of ‘current practice’ and make the necessary adjustments to validate its authority.

**ANNEXURE 33**

**High Court asked to rule on disqualification of all sitting members of parliament**

As a result of this Full Bench ruling, a Notice of Motion has been lodged with the High Court of Australia requiring that it rule that their Judgement that the United Kingdom is a foreign power, has effectively disqualified all sitting members in the Australian

parliament in that they have sworn and subscribed an oath of allegiance to the Monarch of that same foreign power.

### **ANNEXURE 34**

The people have approached and made demands of individuals assuming positions of power on both sides of the political spectrum. They have taken the argument to lower courts, they have called on the protector of Australian law, the Attorney - General, to see that those charged with administering the law obey that same law. They have presented the facts of the invalidity of the political system in use in Australia to the highest court in the land. All to no avail. The people have enjoyed no success. They have not wrested control over their affairs from the existing invalid system. However, .....

#### **Charade of calling a referendum for the people to decide: Monarchy or a Republic?**

Perhaps the much publicised referendum to decide whether Australia will be a 'Republic' or a 'Monarchy' into the next millennium could be attributed to persistent agitation by informed and concerned citizens.

This referendum is dated for November 6th. As this submission goes to press, on August 5th, the process of drafting the legislation pertaining to 'The Republic' and the wording of the questions to be put to the people has not been finalised. In fact Parliamentary committees are still meeting in an attempt to resolve matters of principle.

Despite this, it is clear that the legislation being created to permit and conduct this referendum will inevitably result in the fundamental principle for each of the options advanced relying on the retention of the United Kingdom Parliament's domestic law, '*An Act to Constitute the Commonwealth of Australia*'! **Any approach other than this would necessitate an admission that power has been maintained without the necessary authority.** It is clear this does not present as an option to politicians, the judiciary or senior bureaucrats.

Thus this 'offering' to the people to choose between a 'monarchy' or a 'republic' results, either way, in a perpetuation of the present fundamentally flawed and thus invalid situation.

The current proposition to "bridge the legal void" represents just another in an 80 year procession of charades.

**Each time the legal void in which Australia finds itself suspended is seriously exposed the Australian Parliament colludes with United Kingdom Parliament to produce some 'creative legislation'. While in between such times the Australian courts regularly indulge in producing 'creative judgements' which ignore, not only the legal void but also the existence of civil rights implicit in international treaties to which Australia is a signatory. When pertinent questions are asked of the Australian Attorney-General he persistently evades responsibility by requiring an 'Adviser' to provide the signed response.**

**There exists clear signs of an imminent collapse of political and judicial structures curenly in use in Australia.**

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## **THE INTERNATIONAL ARENA:**

### **SOME PROJECTED EFFECTS OF THE PROLONGATION IN OFFICE OF AN INVALID AUSTRALIAN GOVERNMENT**

This report has thus far been concerned with the effects of the continued application of United Kingdom Law on Australia's internal affairs and the consequent effects on the citizenry of Australia.

However, this does not represent the limit of the concerns that are held for it is clear that the existing situation, as it becomes more widely understood, has the potential to profoundly affect Australia's standing in relation to international affairs. This in turn may bring an entirely new set of problems for the people of Australia.

#### **Australia citizenship laws invalid**

Within Australia there are a large number of residents who have emigrated from their place of birth. Many of these people have chosen, in accordance with the National Citizenship Act 1948, to become 'naturalised' Australian citizens choosing, in the process, to renounce the citizenship which they brought with them.

Apart from the established argument relating to the invalidity of the Australian Constitution which in turn renders the National Citizenship Act 1948 invalid, there exists no power within the Constitution to create other than British citizens.

In other words the Constitution makes no provision for the creation of Australian citizens.

It is of grave concern that should the situation be challenged in the international arena it will be found that a very significant proportion of Australian residents will be found, in the legal sense, to be stateless. Perhaps a more serious scenario may occur thus; on the establishment that the asylum believed to be afforded by 'Australian citizenship' and residency is invalid, individuals will thus have lost all protection and may find themselves victimised through being again subjected to the laws of a State that it was believed had, for whatever reason, been renounced.

As an aside to this :-

**On the Australian domestic scene an interesting aside to this scenario arises thus:-** People naturalised under the National Citizenship Act 1948 cannot validly occupy a seat in an Australian parliament. But more significantly, since Australian electoral roles contain the names of citizens created by way of the National Citizenship Act 1948, it follows that parliaments have been elected by unqualified voters and therefore those parliaments have no status as representatives of the Australian people.

## **International Treaties**

### **Validity of International Treaties to which the Australian Government is a signatory**

Authorities canvassed have been unable to indicate precisely how many treaties to which Australia is a signatory. Different definitions produce answers ranging from 940 to upwards of 3,000.

As already established in the body of this paper, and compounded by the simple scenario outlined immediately above, the 'Government' responsible for signing these treaties could not, at any time, under international law, have validly represented the sovereign peoples of Australia, that is, by definition, the legal entity, the Commonwealth of Australia. Thus it would seem that it may well be argued that any, each, and every one of these treaties may, at any time be declared invalid and therefore not binding on signatory States.

This in turn represents a threat to the protection of, amongst other things, commercial and intellectual property, patents, contracts, extradition orders and even peace treaties and defence alliances.

It is demonstrably clear that, by continuing to permit the application of United Kingdom law in Australia, both signatory Member States, Australia and the United Kingdom, have contravened both the Covenant of the League of Nations and the Charter of the United Nations.

In the first instance: .... *"In case any Member of the League shall, before becoming a Member of the League have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations."* (Article 20 of the Covenant of the League of Nations)

and in the second instance; *"In the event of a conflict between the obligations of a Member of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail."* (Article 103 of the Charter of the United Nations)

**It is projected that if the unrepresentative and invalid governmental structure of the Commonwealth of Australia is permitted to continue serious repercussions within the international arena are inevitable.**

\*\*\*\*\*

## **RIGHT TO SOVEREIGNTY DENIED**

**The present corrupted system of government in Australia has developed and evolved as a result of a failure to establish a citizen based foundation for the politico/legal system operating in Australia.**

### **People assuming power are reluctant to relinquish the control that they enjoy**

The authors and submitters of this report, being informed and concerned Australians, believed it reasonable to expect that politicians and members of the Judiciary, after having on many occasions, been confronted with the facts of history and the demands of international law, would have declared it both necessary and urgent, to create and install a valid instrument to bridge the 79 year legal void resulting from the 1919/1920 change in sovereignty of Australia..

However, because of the outcomes of direct approaches to all high offices, including the entire court system, within Australia, it has become abundantly clear that that which would cause the Australian Government to become a legitimate member of the World Community of Governments is unattainable through civil action within Australia.

It is now clear that the adjustments necessary to give a valid status to the government of the Commonwealth of Australia, are *"..not matters of municipal law but the law of nations and are not cognisable in a court exercising jurisdiction under that sovereignty which is sought to be challenged."*

### **The people approach the International Arena**

In desperation, an application was made to the International Court of Justice. As reported above, despite the convincing argument presented, the sovereign Australian people submitting the application were not granted standing by that court.

Thus now, this approach to, the individual Member States of the General Assembly, the Security Council, the Human Rights Commission and the International Criminal Commission, all of the United Nations.

Under the Charter of the United Nations all Member States have an obligation through, a mutual guarantee, to ensure that each Member State shall enjoy political freedom, political sovereignty.

### **The expression of the affairs of State rest directly with the sovereign people**

The content of this report clearly establishes that those claiming the power to govern over the sovereign people of Australia do so, not only, without the necessary authority of those same people but, as demonstrated, have also sworn and signed an oath of allegiance to the Monarch in the sovereignty of the United Kingdom, a power foreign to Australia.

Accordingly the 'Australian government' does not, and can not, validly represent the federated sovereign peoples of Australia, that is, the Commonwealth of Australia.

As a result, affairs of State and the representation in matters of State can only be expressed through the direct actions of the sovereign people.

**Notice of intention to apply for an International Criminal Tribunal issued**

On the 8th June 1999 notice of intention to apply for the establishment of an International Criminal Tribunal was served on:

- 1) the individual assuming the role of Prime Minister and leader of the Government of Australia, Mr John Howard,
- 2) the individual assuming role of Federal Attorney-General, Mr Darryl Williams,
- 3) and the individual assuming the role of Leader of the Opposition to the Government of Australia. Mr Kim Beasley.

**ANNEXURE 35**

A response, dated 27th July 1999 has been received from the Office of the Attorney-General over the signature of an 'Adviser'. This response restates the politically convenient 'theory of sovereignty through evolution' while confirming that 'Australia is a fully independent nation' in which 'Imperial law' may still be applied!

The response also states that, in general, international law including the Charter of the United Nations, is not binding on Australian courts in relation to the individual rights of Australian citizens and does not impose any obligation on the actions of either an individual or the executive.

**ANNEXURE 35**

(It is pertinent to mention that the 'Hayne J' in *Joosse and Anor v Australian Securities and Investment Commission (ASIC)* judgement relied on (see ANNEXURE 28) resulted in the ASIC pursuing the matter but then in the light of a High Court Full Bench decision in *Sue v Hill* (see extracts, ANNEXURE 30) which effectively overruled Hayne J, seeking an adjournment *sine die* rather than face a full Constitutional argument. Yet the Attorney-General, no doubt finding the arguments presented unanswerable, continues to rely on this 'unsafe' judgement.)

**Concerned and informed Australian citizens have taken exhaustive measures to extract their sovereign nation from the influence of foreign powers. They continue to be totally denied their inalienable right to self determination.**

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## REQUEST IN CONCLUSION

This submission has demonstrated that the federated peoples of Australia, which constitute the legal entity, the Commonwealth of Australia, is an independent sovereign nation.

This submission has demonstrated that the six Australian State Governments as well as the Federal Government of Australia remain extensions of the United Kingdom Government.

This submission has also demonstrated that those exerting power through these governmental structures, as well as those individuals nominated to act on their behalf, are clearly definable as agents of a power foreign to the Commonwealth of Australia.

This submission has demonstrated that individuals within Australia, in concert with the Government of the United Kingdom, have repeatedly acted to conceal the political and legal truth that the sovereign people constituting the Commonwealth of Australia have for almost eighty years been denied the right to self determination.

And finally the content of the correspondence presented in the final annexure (ANNEXURE 35) to this submission clearly and decisively demonstrates that those assuming the role of the Australian Government, even in the face of the most extreme action which the sovereign people may take, persist with what is seen as a hopeless charade and in the process tenuously rely on a single, extremely questionable, High Court Judgement.

**Aware and informed citizens recognise that the long standing situation has now degenerated to a stage where a breakdown in law and order, with associated violence, is entirely predictable and that urgent corrective action is called for.**

**Having absolutely exhausted all possible domestic avenues of rectification it is now apparent that the only non violent action remaining open to the citizenry of Australia lies with this appeal to individual members of the international community who, being co-signatories to the Charter of the United Nations, guarantee the Commonwealth of Australia, under Articles 2, 4, 6, 102 and 103, as well as various resolutions, the right to self determination.**

**Therefore, a request is made, to all Member States to individually and collectively present and plead our cause before the General Assembly of the United Nations. We ask, through those same Member States, for the General Assembly:-**

**1. to establish, within the territory of Australia, an International Tribunal to investigate, with the view to the confirmation of, the allegations contained in this**

submission and as a result have all Australian governments at all levels declared, under international law, invalid..

2. to establish within the territory of Australia an International Criminal Tribunal, to prosecute individuals named in the annexures of this report and any other individuals who have been seen to be aiding and abetting the continuing breach of international law through the application of United Kingdom law within the territory of the sovereign nation State, the Commonwealth of Australia.

3. to implement such other procedures as are seen as necessary to uphold the Charter of the United Nations.

4. to initiate and maintain procedures necessary to ensure the security of people residing, both individually and collectively, in the territory of the Commonwealth of Australia up to and until the successful implementation of a Constitution agreed to by way of a plebiscite conducted amongst all mature Australian citizens.

5. to declare Australia's seat at the United Nations to be *persona non grata* until such time as a representative is nominated by a Government which validly represents the sovereign and federated people of Australia, that is, the Commonwealth of Australia.

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Institute for  
Constitutional Education and Research Inc.

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A.R.B.N. A0037928M

**High Commissioner  
Human Rights Commission  
OHCHR UNOG CH1221  
GENEVA  
SWITZERLAND  
and  
N. Y. 10017  
NEW YORK, U S A**

**The Secretariat  
Security Council  
United Nations  
N.Y. 10017  
NEW YORK U S A**

**'AUSTRALIA The Concealed colony'**

**A submission in two volumes presented in August 1999 to all 185 Member States of the United Nations and to all appropriate organs within the United Nations**

**SUPPLEMENTARY SUBMISSION NO 1. 12th January 2000**

**Content**

- I. Letter of introduction
- II. Notes outlining the essence of the original submission
- III. Justification for considering this supplementary submission and for its acceptance for attachment as an additional annexure to the original document.
- IV. Request to both the HRC and the Security Council to take urgent interim measures to ensure that individuals do not create situations which would justify offended parties taking action under Article 51 of the Charter of the United Nations.
- V. Accompanying documents as listed on page 5.

**I. LETTER OF INTRODUCTION**

In August/September of 1999 this Institute tendered, in the name of the sovereign people of the Commonwealth of Australia, an application and request for the establishment of an International Criminal Tribunal (Australia). This was done by way of a submission entitled '*AUSTRALIA The Concealed colony*' which was individually presented to all 185 Member States of the United Nations. In addition copies were presented to the Human Rights Commission, the Human Rights Committee, the Security Council, the International Crimes Commission, the General Secretariat as well as personal copies to the Secretary General, Mr Koffi Annan.

It is apparent that every Nation has, and all organs within the United Nations Organisation have accepted the submission.  
From reports received by this Institute it is also apparent that the Government of the United Kingdom has confirmed that Australia achieved sovereign nation status in 1919, an occurrence which rendered British law ultra vires with regard to Australia.



And further, that that Government has confirmed that Queen Elizabeth II is a statutory Monarch whose Office is integral with the United Kingdom Legislature and therefore cannot give valid assent or have legal influence in the internal affairs of Australia.

In the light of such revelations and other developments some Australian court systems, law enforcement agencies and government bodies have, during this interim period, been seen to exercise restraint and caution in applying their claimed powers.

In this regard authorities in the State of Queensland represent a clear exception. This part of Australia has traditionally been where the most oppression has occurred and where, even in the present circumstances, such oppression continues to be exercised without restraint.

Since presenting the original submission this Institute has been made aware that people claiming certain powers under current law of the Parliament of the United Kingdom have, within the Australian State of Queensland, served on Australian citizens notice of intention by way of Royal command to dispossess those Australian citizens of their freehold property.

This command, to the Sheriff of Queensland, is purported to have been issued by Queen Elizabeth the Second. It was witnessed by the Chief Justice of Queensland and signed by a clerk 'for the Registrar' of the Supreme Court of Queensland.

This command has been supported by the High Court of Australia through the issuing of two separate "Enforcement Warrants" directing the Marshall of the High Court of Australia to "seize and sell ... real and personal property" of these same Australian citizens.

Because the power, here exercised, is derived entirely under a current domestic law of the Parliament of the United Kingdom this Institute interprets this incident as constituting an act of aggression perpetrated by one Member State of the UN within the sovereign Territory of another Member State of the UN. Technically this situation amounts to an invasion.

Consequently, the situation that has been created has the clear potential to precipitate Action under Article 51 of the Charter of the United Nations.

This Institute believes that every effort should be made, by all responsible authorities, to ensure that this potential is neutralised without delay.

**Accordingly the Human Rights Commission and the Security Council as well as other appropriate organ/s within the United Nations Organisation are requested to initiate urgent interim measures that will ensure that 'pressure' generated by this incident is relieved quickly and that safeguards are created to forestall the development of similar situations**

At the same time, because the nature of, and implications to be drawn from, this particular incident have not been dealt with in the submission as it currently exists, it is requested that this communication and developed argument, together with the enclosed documents, be received as a supplementary submission to be included with the annexures tended with the original submission.

At a later date further indictments of other Queensland Judges, Registrars and like officials will be submitted with the view to having ICT investigations and prosecutions commence in that State.

Yours truly,

Peter Batten.

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## **II. NOTES OUTLINING THE ESSENCE OF THE ORIGINAL SUBMISSION:**

The Commonwealth of Australia is, by definition, an indissoluble federation of the Australian people. After a limited expression of the will of the people the federation was created by an Act of British colonial law proclaimed on 1<sup>st</sup> January 1901.

- 1) The United Nations has clearly demonstrated that from at least 24 October 1945 the Commonwealth of Australia has been recognised, under international law, as an independent sovereign nation. That is to say, Australia is no longer a dependency of the United Kingdom.
- 2) It has been established that the United Kingdom Parliament has, by statute, via its 1948 'Nationality Act', decreed that from at least January 1, 1949 Australia has not been a dependency of the United Kingdom.
- 3) In keeping with all definitions of sovereignty as well as the dictates of international law, on achieving independence all British colonial law, including '*An Act to Constitute the Commonwealth of Australia*', became ultra vires with regard to Australia.
- 4) At that same time the British Monarch and the Parliament of the United Kingdom became irrelevancies with regard to the affairs of government within Australia.
- 5) As a result of the change in sovereignty over the Commonwealth of Australia from, the Parliament of the United Kingdom to the citizenry of Australia, all Australian Parliaments, Governments and instrumentalities including, the Courts, dependent for their existence on the British law '*An Act to Constitute the Commonwealth of Australia*', ceased to have validity at the time that that change occurred.
- 6) As a consequence all individuals assuming power under the terms of the Constitution, are definable as agents of the foreign power, the United Kingdom and that this is confirmed by the terms of the Oath of allegiance to which many serving individuals must swear and subscribe.
- 7) That this is so, was reinforced with the United Kingdom Government's confirmation that '*An Act to Constitute the Commonwealth of Australia*' remains a current Act of Domestic law of the Parliament of the United Kingdom and that it can only be altered and repealed by the Parliament of the United Kingdom.
- 8) That Constitution Act (at Clause 2) decrees that the only Monarchy recognisable by the Constitution (Clause 9 of the Act) is the Monarch in the Sovereignty of the United Kingdom.
- 9) The Office, 'Queen of Australia' is an Office that exists without authority, it is purely titular.

No Head of Power exists in the Constitution to declare another Monarch. And even if it did a referendum under Section 128 of the Constitution (clause 9 of the Act) would have had to be conducted. Even then a 'catch 22' situation would exist because Clause 2 of the Act defining the Monarch for the purpose of the Act lies outside the reach of Section 128 of the Constitution. Conclusion: it is not possible, under any circumstance, for 'The Queen of Australia' to have any legal influence on the affairs of Australia.

- 10) "ELIZABETH THE SECOND, by the Grace of God, Queen of Her other Realms and Territories, Head of the Commonwealth" is, by definition, 'Queen of the United Kingdom'
- 11) The Act of Settlement (UK) 1701 decrees that the British Monarch must be appointed by, and become an integral part of, the United Kingdom legislature. Thus the only valid Office of Queen Elizabeth the Second is the 'Queen in the Parliament of the United Kingdom' and that Office possesses no authority outside that parliament.  
There exists a plethora of legal opinion supporting this – including the Queen's own website.
- 12) So it is that, to undertake anything in the name of, or to swear an oath to Queen Elizabeth the Second legally constitutes an action in the name of, or a committal to the Parliament of the United Kingdom.

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### **III. JUSTIFICATION FOR CONSIDERING THIS SUPPLEMENTARY SUBMISSION AND FOR ITS ACCEPTANCE FOR ATTACHMENT AS AN ADDITIONAL ANNEXURE TO THE ORIGINAL DOCUMENT.**

**Be pleased to receive the afore and that which follows as a supplementary submission for inclusion in the annexures to the submission 'AUSTRALIA The Concealed colony' and to be dealt with under 'Application and Request' and specifically clauses 2, 3 and 4.**

This supplementary submission arises out of a matter involving the illegal application of British colonial law to oppress Australian citizens within the sovereign territory of the Commonwealth of Australia which is additional to those contained in the original submission.

In this instance the oppression is demonstrated by way of an incomplete series of appeals conducted within a court system established under United Kingdom law which is ultra vires in relation to the sovereign independent State, the Commonwealth of Australia.

This oppression has culminated in the issuing, by a court established under United Kingdom law, of an enforcement warrant to seize and sell freehold property to satisfy a claim lodged by the equally invalid local government authority, the Laidley Shire Council (Mayor Shirley Pitt. Chief Executive Officer Christopher M. Payne) for debts allegedly incurred by that council in the process of conducting incomplete and therefore unsatisfied court actions involving Australian Citizens Gary Stephen Friend and Kathryn June Friend.

While the Institute has been well aware that many instance of dispossession have occurred, and continue to occur, the Institute has not before been able to gain access to sufficient documentation to permit it to cite the practice before a tribunal.

However in the case cited in this supplementary submission full records including letters of communication, court transcripts details of intimidation, including forcible incarceration without warrant, etc, etc, have been maintained and will be made available if required.

The attached documents relate to the culmination of prolonged coercive actions entered into by persons who have used United Kingdom law to assume the power to do so. In part those actions have involved an incomplete and therefore unsatisfied series of court actions, namely;

- Court 1 : Queensland Local Government Court before - Judge Row
- Court 2 : Queensland Planning and Environment Court – Judge Quirk
- Court 3 : Queensland Supreme Court, Court of Appeal – Judges Davies, Mc Pherson and Fitzgerald.
- Court 4 : High Court of Australia, Court of Appeal – Judges Kirby and Callinan.
- Court 5 : Queensland Planning and Environment Court – Judge Quirk.
- Court 6 : Queensland Supreme Court, Court of Appeal – Chief Justice of Queensland, Paul de Jersey, Judges, Mc Murdo and Moynihan.
- Court 7 : High Court of Australia – The application to this court included, in part, a requirement that the court declare its ultimate source of authority. As a consequence the Court’s Registrar, believed to be in the person of either, Deputy Registrar Margaret Rischbieth or Senior Registrar Carolyn Rogers chose, wrongly, to rule that the Appellants had abandoned the case.

A cursory examination of details relating to the conduct of individuals exercising power in relation to this drawn out series of appeals together with knowledge of the persistent stance relating to civil and political rights displayed by Australian citizens, Gary and Kathryn Friend has been conducted.

In addition to the individuals here listed, other people in positions of power have, while in possession of the facts, clearly imposed unduly on Mr and Mrs Friend through the unauthorised application of British colonial law. These include representatives of local government and their employees, members of the Queensland Police Force as well as court officials, including Registrars and members of the Sheriff’s Office, and in addition and in particular, principals in the Brisbane law firm ‘Connor O’Meara, solicitors’.

ACCOMPANYING DOCUMENTS - offered as justification for statements made above

- 1) Letter of request dated 25<sup>th</sup> May 1999 to the Registry of the High Court of Australia which precipitated the arbitrary decision that Mr and Mrs Friend had abandoned the case. No reply to this letter has been forthcoming.
- 2) Documents served on 21 Dec.1999; by Qld. Police officers posing as court officials.
  - i) LETTER dated 17<sup>th</sup> December 1999 from CONNOR O’MEARA solicitors.
  - ii) WRIT OF FIERI FACIAS FOR COSTS – Supreme Court of Queensland
  - iii) ENFORCEMENT WARRANT – Seizure and Sale of Property No. B50 of 1997- High Court of Australia, Brisbane (Queensland) Registry.
  - iv) ENFORCEMENT WARRANT – Seizure and Sale of Property No B45 of 1998 – High Court of Australia, Brisbane (Queensland) Registry.

**The Institute considers that this incident, extending over some 11 years, represents an archetypal illustration of the nature and intensity of oppression to which Australian citizens are subjected, particularly in Queensland, when these same citizens question people in positions of power and require them to identify the ultimate source of their claimed authority.**

Accordingly it is believed that this is an important aspect of the 'Australian situation' which deserves to be examined and taken into account when considering the Application for the establishment of an International Criminal Tribunal (Australia). And naturally, after the establishment of such a tribunal, this specific case deserves to be prosecuted.

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**IV. REQUEST TO BOTH THE HUMAN RIGHTS COMMISSION AND THE SECURITY COUNCIL TO TAKE URGENT INTERIM MEASURES TO ENSURE THAT INDIVIDUALS DO NOT CREATE SITUATIONS THAT WOULD JUSTIFY OFFENDED PARTIES TAKING ACTION UNDER ARTICLE 51 OF THE CHARTER OF THE UNITED NATIONS**

It is not uncommon in Australia for landholders and other property owners to be subjected to unreasonable treatment by those assuming the power to seize and sell assets. There have been many reports of such incidents ending in tragedy for the citizen and his family.

However, as knowledge of the truth relating to the invalidity of the laws being applied in Australia becomes more widespread it is inevitable that action under Article 51 of the Charter of the United Nations will be employed by victimised citizens.

The seriousness of such situations becomes clearer when it is understood that those charged with the task of executing the seizure and possession warrant are likely to be totally unaware of the illegality of their actions.

It is clear that such ignorance exists as a direct result of the United Kingdom failing to make any public statement relating to the invalidity of the ongoing use of its laws in Australia. Existing parallel with this is a series of decisions made by Australian 'Governments' to place restrictions on the national media so that the people will not become aware of the realities relating to the invalidity of Australian Governments.

Thus it is that any event involving seizure and possession of property is needlessly charged with a potential to precipitate a catastrophe.

**This Institute is of the opinion that the case presented in this supplementary submission serves as an illustration of a situation which is sufficiently serious to warrant the urgent implementation of interim measures to immediately curtail the issuing of 'command to seize and possess' orders by Courts operating in Australia.**

Accordingly both the Human Rights Commission and The UN Security Council are requested to direct attention to the following specific examination and analysis of the of the ACCOMPANYING DOCUMENTS, ii), iii) and iv).



**Document ii). WRIT OF FIERI FACIAS For Costs – Supreme Court of Queensland.**

This document constitutes a command, allegedly issued by the Sovereign of the United Kingdom whose powers are limited to the United Kingdom and its dependencies.

This command is to dispossess Australian citizens of their freehold Australian “lands”, as well as their “goods, chattels, choses in action, and other property”. The form of the writ is such that the command has been issued in the name of the Westminster Parliament under legislation which is clearly British domestic law.

Those responsible for preparing, serving and ultimately executing this writ claim power to do so under this same current domestic law of the Parliament of the United Kingdom. In legal terms they are each agents of the United Kingdom. Many have sworn and subscribed to a solemn oath of allegiance and service to the Parliament of the United Kingdom.

This Writ, being a command issued by one Member State of the United Nations to seize land and other property within the Territory of another Member State of the United Nations means that, in basic terms, this writ legally constitutes an invasion. It is in fact interpretable as a formal act of war. As such it may be met with a response under Article 51 of the Charter of the United Nations.

**Documents iii) and iv) are ENFORCEMENT WARRANT/S - Seizure and Sale of Property – issued by the Registry of the HIGH COURT OF AUSTRALIA.**

These warrants have been issued by the highest court, apart from the Australian Parliament itself, created by the current Act of United Kingdom domestic law, *‘An Act to Constitute the Commonwealth of Australia’*.

All Judges appointed to the High Court of Australia have received their ‘Letters of Commission’ directly from Queen Elizabeth the Second through which Office they have Sworn and subscribed to an oath to “be faithful and bear true allegiance to Queen Elizabeth II” which means in fact, the Parliament of the United Kingdom.

The issuing of these warrants by the High Court represents a clear endorsement and confirmation of the aggressive actions, promulgated in the name of QUEEN ELIZABETH THE SECOND in the Parliament of the United Kingdom, by individuals who have acted through the agency of the Supreme Court of Queensland.

The High Court of Australia, being established under current British domestic law and whose members have sworn to serve the Parliament of the United Kingdom have, through the issuing of these Enforcement Warrants, endorsed and supported the intention of a United Kingdom invasion (as defined) announced by way of a WRIT OF FIERI FACIAS (see included document i)) issued through the Supreme Court of Queensland.

These things being so, we are advised that this particular incident, generated in the name of the United Kingdom and executed within the sovereign territory of the

Commonwealth of Australia, both Member States of the United Nations, clearly results in an issue that comes under the jurisdiction of the War Crimes Commission.

So it is that, in addition to presenting this Supplementary Submission to the Human Rights Commission, ultimately for action by an International Criminal Tribunal within the terms of the Submission entitled 'AUSTRALIA The Concealed colony', the Security Council of the United Nations is also formally and duly notified of an alleged act of aggression by one Member State against another Member State of the United Nations.

**In the interests of justice, peace and good order within the Sovereign nation of the Commonwealth of Australia both organisations are requested to examine, define and deal with this specific matter without delay.**

Peter Batten,  
For the Institute of Constitutional Education and Research, and on behalf of the sovereign people of Australia, who by definition, constitute the indissoluble Commonwealth of Australia.

Gary and Kathryn Friend  
20 Topaz Creecent  
Lockyer Watere  
Q'ld 4311  
15th May, 1999.

Attention:-

Margarat Riechbleth  
Deputy Registrar  
High Court of Auatralia  
P.O. Box E435  
Kingston. ACT 2604.  
Fax No: 02 6273 3025

Re:- Gary Stephen Frisnd & Kathryn Juns Friend V Laidley Shire  
Council B45 of 1998.

Dear Madam,

Your correspondence dated 18 May 1999, received May 24, 1999, once again confirms the "biae and prejudice" of ALL you represent; all legieletive bodies, all judicial systeme, all civil esrvante, and their agents, within the Independant Sovereign Nation of the Commonwealth of Auetrailia. This correspondence of yours also contains "Threat and Intimidation", but what it doesn't contain ia what you wsrre requirsd to supply on behalf of yourself, and all the above whom you represent; namely:-

- 1) Your source of power;
- 2) Your authority;
- 3) Your jurisdiction;
- 4) Your Head of Power;
- 5) A legally binding, valid and legitimate constitution;  
written and approved by ALL the people of the Commonwealth of Australia.

Since the High Court of Australia has established that International Trsaty overridss municipal, National, domestic, statute, civil or colonial law in the "Tech Caee of 1994", and established that the The Unitaed Kingdom of Great Britain was a "Foreign Power" in the "Robert Wood Caee of 1988"; and you continua to rafuaa to supply us with any documented evidence which establishas your:-

- 1) Authority;
- 2) Jurisdiction;
- 3) Source of powsr;
- 4) Head of Power;
- 5) Valid Constitution.

We refer you to the requiremant under International Law whereby ANY court official, judge, magistrate, law officer, police officer, or their agents must be able to produce ALL the above on demand. One such section of International Law (but there are many) ie found in the United Nations: Covenant on Civil and Political Rights of 1966, at Article 14 (and othere), "Allowing haaringe ONLY bsfore competent courts".

If you can't produce ANY of what we havs already asked for on a number of occasions (not unfairly we think). We now ask that you produce:-

- 1) Written permission from the Unitaed Nationa to use Foreign Law in contravention of Articia 2: paragraphs 1 and 4, of tha United

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Nations Charter of 1945;

2) Written permission from the League of Nations to use Foreign Law in contravention of Articles 1, X, and XX; of the League of Nations Covenant of 1919; and assented to by the United Nations as being allowed to continue at International Law after the establishment, and signing of the U.N. Charter by the various Independent Member States;

3) Permission, in writing, from the United Kingdom of Great Britain Parliament to continue the use of United Kingdom of Great Britain Law in the Independent Sovereign Nation of the Commonwealth of Australia; assented to and duly signed and sealed by the Royal Monarch of the United Kingdom of Great Britain; in contravention of the United Kingdom of Great Britain Law, and International Law, after January 10, 1920;

4) Clear written evidence of the freely expressed permission by the people of Australia, for the continued use of Foreign Colonial Law, within the Commonwealth of Australia, after January 10, 1920; when clearly ALL Foreign Law (colonial or otherwise) was deemed to be abrogated (null and void) at International Law under the terms of the League of Nations Covenant, upon the several Independent Nations signing the Covenant (Australia and Great Britain were original signatories).

Under International Law any judge, magistrate, judicial officer, police officer, public servant or their agents imposing penalties under invalid laws without the legal authority outlined above, does so as a private individual and personally assumes all responsibility, including repayment from their private assets, of any monies collected or any damages or reparations later sought. If any person is imprisoned under these invalid laws, the officers imposing that imprisonment are in breach of the Geneva Convention Number 1V.

To impose British Colonial Law within the Commonwealth of Australia is a breach of the 1947 Geneva Convention No. 1V; and as such fits snugly within the definition of a "War Crime" under that Convention. The penalties prescribed under this section of International Law include capital punishment, substantial prison sentences and the loss of all possessions, assets and monies.

We are most eager to appear before a court possessing valid, legal authority, jurisdiction and power, under International Law; so we await your early return of the documents listed, or their equivalent. Until this request is complied with, all correspondence, judgement, order, or action is done without legal validity, and we maintain ALL our rights and privilege at International Law. To be fair to you; and all the members of the Australian judiciary, all court officials, all police officers, all public servants, and their agents, who you now represent; we allow you 28 days to comply with all this request. Failure to supply all these documents within 28 days will be taken as confirmation that none exist. Thus 11 years of vexatious harassment through the various courts of Australia have constituted a massive combination of Human Rights violations perpetrated by the people you now represent against us: Gary Stephen Friend and Kathryn June Friend and Family. The fact that these Human Rights Crimes are almost certainly considered "War Crimes" contrary to the Geneva Convention 1947, has not escaped our consciousness.

It should also be noted that under Article 51 of the United Nations Charter, citizens are entitled to "individual and collective self defence" by any means allowed under the rules of War against the actions of illegal governments, or courts, applying Foreign Law.

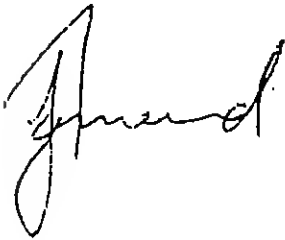
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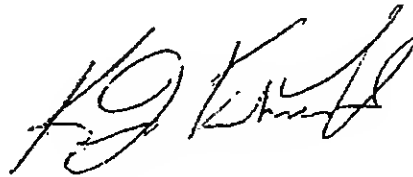
3

Due to your eluding that you have misplaced your original copy of our letter of 13th May, 1999, please find enclosed a copy of that letter posted at Gatton Post Office May 13, 1999.

Yours sincerely,



Gary Stephen Friend



and

Kathryn June Friend.

CONNOR ● O'MEARA  
solicitors

Our Ref: Michael Connor:EAS:9703745

17 December 1999

Mr G S & Mrs K L Friend  
20 Topaz Crescent  
LOCKYER WATERS 4311  
**HAND DELIVERY**

Dear Sir and Madam

Laidley Shire Council ats Friend

We enclose by way of service an endorsed copy of the following:

1. Writ of Execution - Court of Appeal Proceeding No. 8630/97;
2. Enforcement Warrant - High Court Application No. B50/97; and
3. Enforcement Warrant - High Court Application No. B45/98.

Yours faithfully  
**CONNOR O'MEARA**  
*Michael Connor*

fr.24



This office will close for the Christmas break at  
5.30pm on Thursday 23 December 1999 and  
reopen at 8.00am on Tuesday 4 January 2000

LEVEL 16 255 AOELAI0E STREET  
GPO BOX 2239 BRISBANE Q 4001  
TEL (07) 3221 3033

W/E 47/99

IN THE COURT OF APPEAL  
SUPREME COURT OF QUEENSLAND

Appeal No. 8630 of 1997



ON APPEAL FROM THE  
PLANNING & ENVIRONMENT COURT  
HELD AT BRISBANE

P & E Application 217 of 1996

BETWEEN: GARY STEPHEN FRIEND and KATHRYN JUNE FRIEND

Appellants (First and Second Respondents)

AND: LAIDLEY SHIRE COUNCIL

Respondent (Applicant)

4.05pm  
Rec# 27648  
Security - Nil  
Receiving \$27.50

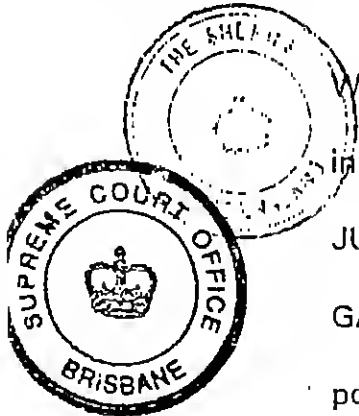
ELIZABETH THE SECOND, by the Grace of God, Queen of Australia and  
Her other Realms and Territories, Head of the Commonwealth.

WRIT OF FIERI  
FACIAS FOR  
COSTS

TO: The Sheriff of Queensland

Filed on behalf of  
the Respondent  
(Applicant)

Greeting:



We command you that of the lands, tenements, goods, chattels, choses  
in action, and other property, of GARY STEPHEN FRIEND and KATHRYN  
JUNE FRIEND within the State of Queensland, of or to which the said  
GARY STEPHEN FRIEND and KATHRYN JUNE FRIEND are seized,  
possessed, or entitled, or which they can assign or dispose of, you  
cause to be made the sum of \$8,320.80 for certain costs, which by an  
order of Our Supreme Court of Queensland bearing date the 23rd day of  
October 1998 were ordered to be paid by the said GARY STEPHEN  
FRIEND and KATHRYN JUNE FRIEND to LAIDLEY SHIRE COUNCIL, and  
which have been default assessed and allowed at the said sum, as  
appears by the certificate of the taxing officer of Our said Court filed the  
9th day of March 1999 together with interest thereon at the rate of

CONNOR  
O'MEARA  
McCONAGHY  
Solicitors  
255 Adelaide St  
BRISBANE 4000

Ph: 32213033  
Fax: 32216661

Our Ref: 3967WRIT

10% per annum from the date aforesaid, and \$182.00 for costs of execution; and that you have that money and interest before Us in Our said Court immediately after the execution hereof to be paid to the said LAIDLEY SHIRE COUNCIL in pursuance of the said order.

And in what manner you shall have executed this Our writ make appear to Us in Our said Court immediately after the execution hereof.

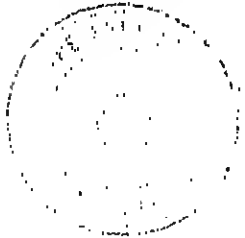
And have there then this writ.

WITNESS - The Honourable Paul de Jersey, Chief Justice of Queensland, at Brisbane, the 12th day of March, in the year of Our Lord One Thousand Nine Hundred and Ninety Nine.

FOR THE REGISTRAR

*[Handwritten signature]*  
I. Enright  
SENIOR CLERK

*Office Copy*



Levy \$8,320.80 and \$182.00 for costs of execution, and also interest on \$8,320.80 at 10% per annum from the <sup>23rd</sup> ~~9th~~ day of <sup>October 1998</sup> ~~March 1999~~, until payment, beside sheriff's poundage, officer's fees, costs of levying, and all other legal incidental expenses.



This writ was issued by Connor O'Meara McConaghy, Level 16, 255 Adelaide Street, Brisbane, in the State of Queensland, solicitors for the Respondent.

The Appellants reside at 20 Topaz Crescent, Lockyer Waters, Queensland.



IN THE HIGH COURT OF AUSTRALIA

BRISBANE OFFICE OF THE REGISTRY  
No. B50 of 1997

W/E 20/1/99  
11269/99

APPLICANTS: GARY STEPHEN FRIEND and KATHRYN JUNE FRIEND

RESPONDENT: LAIDLEY SHIRE COUNCIL

Enforcement Creditor: Laidley Shire Council

Enforcement Debtors: Gary Stephen Friend and Kathryn June Friend

AMOUNT OWING

The enforcement creditor obtained an order for costs on 17 April 1998 against the enforcement debtor. On 17 December 1998 the taxing officer issued a certificate of taxation in respect of the order for costs, allowing the costs of the enforcement creditor in the sum of \$8,440.44. The amount outstanding by the enforcement debtor is as follows:



Judgment amount	\$8,440.44	
Less payments	\$ Nil	
Plus interest (to 6.12.99)	\$ 817.74	
Plus costs	<u>\$ 182.00</u>	
Total owing	<u>\$9,440.18</u>	(plus interest of \$2.31 per day after 6.12.99)

TO THE MARSHAL OR DEPUTY MARSHAL OF THE HIGH COURT:

- You are to seize and sell such of the real and personal property (other than exempt property) in which the enforcement debtor has a legal or beneficial interest as will satisfy the total amount owing on the judgment.
- ("exempt property" means - property that is not divisible among the creditors of a bankrupt under the relevant bankruptcy law as in force from time to time.)
- You are to report in writing to this registry concerning your execution of this warrant and the results.

Enforcement Warrant - Seizure  
and Sale of Property  
Filed on behalf of the Respondent

- 7 DEC 1999
No.
THE REGISTRY CANBERRA

CONNOR O'MEARA  
Solicitors  
Level 16, 255 Adelaide Street  
BRISBANE 4000  
Ph: 3221 3033  
Fax: 3221 6661  
Our Ref: 2th.97



- Your attention is drawn to the provisions of Part 4 of Chapter 19 of the Uniform Civil Procedure Rules concerning -
  - Order of selling property;
  - Payment by enforcement debtor before sale;
  - Storage before sale;
  - Nature of sale;
  - Sale at best price obtainable;
  - Advertising;
  - Postponement of sale;
  - Accountability for, and distribution of, money received;
  - Reserve price provisions.

- The known property of the enforcement debtor is as follows-

- Land situated at 20 Topaz Crescent Lockyer Waters and described as Lots 10 and 11 on RP 141793, County of Cavendish, Parish of England, Title References 15227077 and 15227078 ("the land").
- Improvements and chattels situated upon the land.

This warrant expires on *Wednesday, 6 December 2000*

This enforcement warrant issued at *11:15 am/pm* on *7 December 1999*

#### NOTICE TO ENFORCEMENT CREDITOR

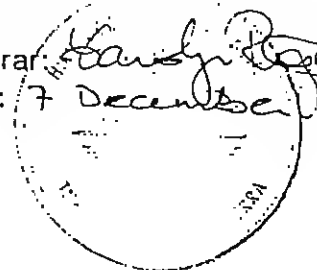
- A copy of this warrant must be served on the enforcement debtor either personally or by post.

#### NOTICES TO ENFORCEMENT DEBTOR

- After being served with this enforcement warrant you must not sell, transfer or otherwise deal with your principal place of residence. Any sale, transfer or other dealing in contravention of that requirement may be set aside or restrained by the Court.
- After service on you of this warrant you may apply to the Court to set it aside or stay execution.
- The filing of that application does not stay the operation of the warrant.



Senior Registrar *[Signature]*  
Dated: *7 December 1999*



IN THE HIGH COURT OF AUSTRALIA

BRISBANE OFFICE OF THE REGISTRY  
No. B45 of 1998

W/E 202/99  
11270/99

APPLICANTS: GARY STEPHEN FRIEND and KATHRYN JUNE FRIEND

RESPONDENT: LAIDLEY SHIRE COUNCIL

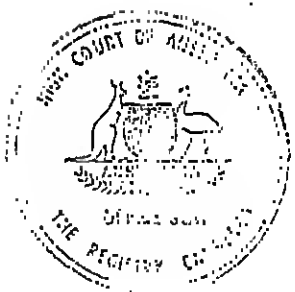
Enforcement Creditor: Laidley Shire Council

Enforcement Debtors: Gary Stephen Friend and Kathryn June Friend

**AMOUNT OWING**

The enforcement debtors failed to comply with Order 69A Rule 10(9) on or before 21 May 1999 and accordingly pursuant to Order 69A Rule 13 the application for special leave to appeal was deemed abandoned. A Certificate of Deemed Abandonment was issued on 25 June 1999. Pursuant to Order 69A Rule 12(2) the enforcement creditor is entitled to recover costs from the enforcement debtors. On 26 November 1999 the taxing officer issued a certificate of taxation in respect of the Bill of Costs, allowing the costs of the enforcement creditor in the sum of \$6,278.45. The amount outstanding by the enforcement debtors is as follows:

Judgment amount	\$6,278.45	
Less payments	\$ Nil	
Plus interest (to 13.12.99)	\$ 29.24	
Plus costs	\$ 182.00	
Total owing	<u>\$6,489.69</u>	(plus interest of \$1.72 per day after 13.12.99)



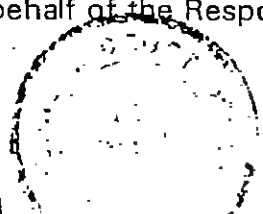
TO THE MARSHAL OR DEPUTY MARSHAL OF THE HIGH COURT:

- You are to seize and sell such of the real and personal property (other than exempt property) in which the enforcement debtor has a legal or beneficial interest as will satisfy the total amount owing on the judgment.
- ("exempt property" means - property that is not divisible among the creditors of a bankrupt under the relevant bankruptcy law as in force from time to time.)

Enforcement Warrant - Seizure and Sale of Property  
behalf of the Respondent

CONNOR O'MEARA  
Solicitors  
Level 16, 255 Adelaide Street  
BRISBANE 4000  
Ph: 3221 3033  
Fax: 3221 6661  
Our Ref: 2the.32

HIGH COURT OF AUSTRALIA  
FILED  
16 DEC 1999  
No.  
THE REGISTRY CANBERRA



- You are to report in writing to this registry concerning your execution of this warrant and the results.
- Your attention is drawn to the provisions of Part 4 of Chapter 19 of the Uniform Civil Procedure Rules concerning -
  - Order of selling property;
  - Payment by enforcement debtor before sale;
  - Storage before sale;
  - Nature of sale;
  - Sale at best price obtainable;
  - Advertising;
  - Postponement of sale;
  - Accountability for, and distribution of, money received;
  - Reserve price provisions.



The known property of the enforcement debtor is as follows-

- Land situated at 20 Topaz Crescent Lockyer Waters and described as Lots 10 and 11 on RP 141793, County of Cavendish, Parish of England, Title References 15227077 and 15227078 ("the land").
- Improvements and chattels situated upon the land.

This warrant expires on *Friday, 15 December 2000*

This enforcement warrant issued at 3:30 ~~am~~/pm on *16 December 1999*

NOTICE TO ENFORCEMENT CREDITOR

- A copy of this warrant must be served on the enforcement debtor either personally or by post.

NOTICES TO ENFORCEMENT DEBTOR

- After being served with this enforcement warrant you must not sell, transfer or otherwise deal with your principal place of residence. Any sale, transfer or other dealing in contravention of that requirement may be set aside or restrained by the Court.
- After service on you of this warrant you may apply to the Court to set it aside or stay execution.
- The filing of that application does not stay the operation of the warrant.



Senior Registrar: *[Signature]*  
 Dated: *16 December 1999*



# **ANNEXURE 1**

## 1. The Australian Constitution Act

# THE CONSTITUTION

*as altered  
to  
31 October  
1993*

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An AGPS Press publication  
Australian Government Publishing Service  
Canberra

# THE CONSTITUTION

As altered to 31 October 1993

(See Note 1 on Page 37)

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## TABLE OF PROVISIONS

### Covering Clause

1. Short title
2. Act to extend to the Queen's successors
3. Proclamation of Commonwealth
4. Commencement of Act
5. Operation of the Constitution and laws
6. Definitions
7. Repeal of Federal Council Act
8. Application of Colonial Boundaries Act
9. Constitution

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#### THE PARLIAMENT

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### Section

1. Legislative power
2. Governor-General
3. Salary of Governor-General
4. Provisions relating to Governor-General
5. Sessions of Parliament  
Prorogation and dissolution  
Summoning Parliament  
First session
6. Yearly session of Parliament

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7. The Senate
8. Qualification of electors
9. Method of election of senators  
Times and places
10. Application of State laws
11. Failure to choose senators
12. Issue of writs
13. Rotation of senators
14. Further provision for rotation
15. Casual vacancies
16. Qualifications of senator
17. Election of President
18. Absence of President
19. Resignation of senator
20. Vacancy by absence
21. Vacancy to be notified
22. Quorum
23. Voting in the Senate



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25. Provision as to races disqualified from voting
26. Representatives in first Parliament
27. Alteration of number of members
28. Duration of House of Representatives
29. Electoral divisions
30. Qualification of electors
31. Application of State laws
32. Writs for general election
33. Writs for vacancies
34. Qualifications of members
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38. Vacancy by absence
39. Quorum
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42. Oath or affirmation of allegiance
43. Member of one House ineligible for other
44. Disqualification
45. Vacancy on happening of disqualification
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48. Allowance to members
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50. Rules and orders

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52. Exclusive powers of the Parliament
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56. Recommendation of money votes
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Recommendations by Governor-General
59. Disallowance by the Queen
60. Signification of Queen's pleasure on Bills reserved

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65. Number of Ministers
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- 87. Revenue from customs and excise duties
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- 107. Saving of Power of State Parliaments
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*The Constitution*TABLE OF PROVISIONS—*continued*

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- 124. Formation of new States

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- 128. Mode of altering the Constitution

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Oath and affirmation of allegiance

## THE CONSTITUTION

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(63 & 64 VICTORIA, CHAPTER 12)

An Act to constitute the Commonwealth of Australia.

[9th July 1900]

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Commonwealth of Australia Constitution Act.<sup>1</sup> Short title.

2. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom. Act to extend to the Queen's successors.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation<sup>2</sup> that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth. Proclamation of Commonwealth.

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on Commencement of Act.

the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

Operation of  
the Constitution  
and laws.

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.<sup>3</sup>

Definitions.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called "a State."

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

Repeal of  
Federal  
Council Act.  
48 & 49 Vict.  
c. 60.

7. The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed<sup>4</sup> as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

Application of  
Colonial  
Boundaries Act.  
58 & 59 Vict.  
c. 34.

8. After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.

Constitution.

9. The Constitution of the Commonwealth shall be as follows:—

#### THE CONSTITUTION.<sup>1</sup>

This Constitution is divided as follows:—

Chapter	I.—The Parliament:
Part	I.—General:
Part	II.—The Senate:
Part	III.—The House of Representatives:
Part	IV.—Both Houses of the Parliament:

Part	V.—Powers of the Parliament:
Chapter	II.—The Executive Government:
Chapter	III.—The Judicature:
Chapter	IV.—Finance and Trade:
Chapter	V.—The States:
Chapter	VI.—New States:
Chapter	VII.—Miscellaneous:
Chapter	VIII.—Alteration of the Constitution.
	The Schedule.

CHAPTER I.  
THE PARLIAMENT.

Chap. I.  
The Parliament.

PART I.—GENERAL.

Part I.  
General.

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is herein-after called "The Parliament," or "The Parliament of the Commonwealth."

Legislative power.

2. A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

Governor-General.

3. There shall be payable to the Queen out of the Consolidated Revenue fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be ten thousand pounds.

Salary of Governor-General.

The salary of a Governor-General shall not be altered during his continuance in office.

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

Provisions relating to Governor-General.

5. The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

Sessions of Parliament.  
Prorogation and dissolution.

- Summoning Parliament. After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.
- First session. The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.
- Yearly session of Parliament. 6. There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

Part II.  
The Senate.

PART II.—THE SENATE.

- The Senate. 7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State,<sup>5</sup> but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

- Qualification of electors. 8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

- Method of election of senators. 9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws<sup>6</sup> prescribing the method of choosing the senators for that State.

- Times and places. The Parliament of a State may make laws<sup>6</sup> for determining the times and places of elections of senators for the State.

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

Application of State laws.

11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

Failure to choose senators.

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

Issue of writs.

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of ~~the third year~~ three years, and the places of those of the second class at the expiration of ~~the sixth year~~ six years, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

Rotation of senators.  
Altered by No. 1, 1907, s. 2.

The election to fill vacant places shall be made ~~in the year at the expiration of which~~ within one year before the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of ~~January~~ July following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of ~~January~~ July preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.<sup>7</sup>

Further provision for rotation.

15.<sup>8</sup> If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen, sitting and voting together, or, if there is only one House of that Parliament, that House, shall choose a person to hold the place until the expiration of the term. But if the Parliament of the State is not in session when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days from the beginning

Casual vacancies.  
Substituted by No. 82, 1977, s. 2.



of the next session of the Parliament of the State or the expiration of the term, whichever first happens.

Where a vacancy has at any time occurred in the place of a senator chosen by the people of a State and, at the time when he was so chosen, he was publicly recognized by a particular political party as being an endorsed candidate of that party and publicly represented himself to be such a candidate, a person chosen or appointed under this section in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, shall, unless there is no member of that party available to be chosen or appointed, be a member of that party.

Where—

- (a) in accordance with the last preceding paragraph, a member of a particular political party is chosen or appointed to hold the place of a senator whose place had become vacant; and
  - (b) before taking his seat he ceases to be a member of that party (otherwise than by reason of the party having ceased to exist),
- he shall be deemed not to have been so chosen or appointed and the vacancy shall be again notified in accordance with section twenty-one of this Constitution.

The name of any senator chosen or appointed under this section shall be certified by the Governor of the State to the Governor-General.

If the place of a senator chosen by the people of a State at the election of senators last held before the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977* became vacant before that commencement and, at that commencement, no person chosen by the House or Houses of Parliament of the State, or appointed by the Governor of the State, in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, held office, this section applies as if the place of the senator chosen by the people of the State had become vacant after that commencement.

A senator holding office at the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977*, being a senator appointed by the Governor of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of the State, shall be deemed to have been appointed to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State that commenced or commences after he was appointed and further action under this section shall be taken as if the vacancy in the place of the senator chosen by the people of the State had occurred after that commencement.

Subject to the next succeeding paragraph, a senator holding office at the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977* who was chosen by the House or Houses of Parliament of a State in consequence of a vacancy that had at any time occurred

in the place of a senator chosen by the people of the State shall be deemed to have been chosen to hold office until the expiration of the term of service of the senator elected by the people of the State.

If, at or before the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977*, a law to alter the Constitution entitled "*Constitution Alteration (Simultaneous Elections) 1977*" came into operation,<sup>9</sup> a senator holding office at the commencement of that law who was chosen by the House or Houses of Parliament of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of the State shall be deemed to have been chosen to hold office—

- (a) if the senator elected by the people of the State had a term of service expiring on the thirtieth day of June, One thousand nine hundred and seventy-eight—until the expiration or dissolution of the first House of Representatives to expire or be dissolved after that law came into operation; or
- (b) if the senator elected by the people of the State had a term of service expiring on the thirtieth day of June, One thousand nine hundred and eighty-one—until the expiration or dissolution of the second House of Representatives to expire or be dissolved after that law came into operation or, if there is an earlier dissolution of the Senate, until that dissolution.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives. Qualifications of senator.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. Election of President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence. Absence of President.

19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant. Resignation of senator.

20. The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate. Vacancy by absence.

Vacancy to be notified.

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

Quorum.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in the Senate.

23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

Part III.  
House of  
Representatives.

### PART III.—THE HOUSE OF REPRESENTATIVES.

Constitution of House of Representatives.

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:—

- (i.) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:
- (ii.) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

Provision as to races disqualified from voting.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:—

Representatives  
in first  
Parliament.

New South Wales . . . . .	twenty-three;
Victoria . . . . .	twenty;
Queensland . . . . .	eight;
South Australia . . . . .	six;
Tasmania . . . . .	five;

Provided that if Western Australia is an Original State, the numbers shall be as follows:—

New South Wales . . . . .	twenty-six;
Victoria . . . . .	twenty-three;
Queensland . . . . .	nine;
South Australia . . . . .	seven;
Western Australia . . . . .	five;
Tasmania . . . . .	five.

27. Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

Alteration of  
number of  
members.

28. Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

Duration of  
House of  
Representatives.

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws<sup>10</sup> for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

Electoral  
divisions.

In the absence of other provision each State shall be one electorate.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

Qualification of  
electors.

31. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

Application of  
State laws.

Writs for  
general  
election.

**32.** The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

Writs for  
vacancies.

**33.** Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

Qualifications  
of members.

**34.** Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—

- (i.) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:
- (ii.) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

Election of  
Speaker.

**35.** The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

Absence of  
Speaker.

**36.** Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

Resignation of  
member.

**37.** A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

Vacancy by  
absence.

**38.** The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

39. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

Quorum.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

Voting in House of Representatives.

PART IV.—BOTH HOUSES OF THE PARLIAMENT.

Part IV. Both Houses of the Parliament.

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

Right of electors of States.

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

Oath or affirmation of allegiance.

43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

Member of one House ineligible for other.

44. Any person who—

Disqualification.

- (i.) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or
- (ii.) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or
- (iii.) Is an undischarged bankrupt or insolvent: or
- (iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or
- (v.) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section iv. does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

Vacancy on happening of disqualification.

45. If a senator or member of the House of Representatives—

- (i.) Becomes subject to any of the disabilities mentioned in the last preceding section: or
- (ii.) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or
- (iii.) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.

Penalty for sitting when disqualified.

46. Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

Disputed elections.

47. Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

Allowance to members.

48. Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

Privileges, &c. of Houses.

49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

Rules and orders.

50. Each House of the Parliament may make rules and orders with respect to—

- (i.) The mode in which its powers, privileges, and immunities may be exercised and upheld:

- (ii.) The order and conduct of its business and proceedings either separately or jointly with the other House.

PART V.—POWERS OF THE PARLIAMENT.

Part V.  
Powers of the  
Parliament.  

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Legislative  
powers of the  
Parliament.

51. The Parliament shall, subject to this Constitution, have power<sup>11</sup> to make laws for the peace, order, and good government of the Commonwealth with respect to:—

- (i.) Trade and commerce with other countries, and among the States:
- (ii.) Taxation; but so as not to discriminate between States or parts of States:
- (iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
- (iv.) Borrowing money on the public credit of the Commonwealth:
- (v.) Postal, telegraphic, telephonic, and other like services:
- (vi.) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
- (vii.) Lighthouses, lightships, beacons and buoys:
- (viii.) Astronomical and meteorological observations:
- (ix.) Quarantine:
- (x.) Fisheries in Australian waters beyond territorial limits:
- (xi.) Census and statistics:
- (xii.) Currency, coinage, and legal tender:
- (xiii.) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
- (xiv.) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
- (xv.) Weights and measures:
- (xvi.) Bills of exchange and promissory notes:
- (xvii.) Bankruptcy and insolvency:
- (xviii.) Copyrights, patents of inventions and designs, and trade marks:
- (xix.) Naturalization and aliens:
- (xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:
- (xxi.) Marriage:



- (xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:
- (xxiii.) Invalid and old-age pensions:
- (xxiiiA.) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances:
- (xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:
- (xxv.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:
- (xxvi.) The people of any race, ~~other than the aboriginal race in any State~~, for whom it is deemed necessary to make special laws:
- (xxvii.) Immigration and emigration:
- (xxviii.) The influx of criminals:
- (xxix.) External affairs:
- (xxx.) The relations of the Commonwealth with the islands of the Pacific:
- (xxxi.) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:
- (xxxii.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:
- (xxxiii.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:
- (xxxiv.) Railway construction and extension in any State with the consent of that State:
- (xxxv.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:
- (xxxvi.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:
- (xxxvii.) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States,<sup>12</sup> but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

Inserted by  
No. 81, 1946,  
s. 2.

Altered by  
No. 55, 1967,  
s. 2.

- (xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:
- (xxxix.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

52. The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to—

Exclusive powers of the Parliament.

- (i.) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:
- (ii.) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:
- (iii.) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

Powers of the Houses in respect of legislation.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Appropriation  
Bills.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

Tax Bill.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

Recommendation  
of money  
votes.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

Disagreement  
between the  
Houses.

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both

Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

58. When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

Royal assent to Bills.

The Governor-General may return to the house in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

Recommendations by Governor-General.

59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

Disallowance by the Queen.

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

Signification of Queen's pleasure on Bills reserved.

CHAPTER II.

Chap. II. The Government.

THE EXECUTIVE GOVERNMENT.

61. The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

Executive power.

62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

Federal Executive Council.

63. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

Provisions referring to Governor-General.

- Ministers of State.**           **64.** The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.
- Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.
- Ministers to sit in Parliament.**           After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.
- Number of Ministers.**           **65.** Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.
- Salaries of Ministers.**           **66.** There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.
- Appointment of civil servant.**   **67.** Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.
- Command of naval and military forces.**   **68.** The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.
- Transfer of certain departments.**   **69.** On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:—
- Posts, telegraphs, and telephones:  
 Naval and military defence:  
 Lighthouses, lightships, beacons, and buoys:  
 Quarantine.
- But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.
- Certain powers of Governors to vest in Governor-General.**   **70.** In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice

of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

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CHAPTER III.

Chap. III.  
The  
Judicature.

THE JUDICATURE.

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

Judicial power  
and Courts.

72. The Justices of the High Court and of the other courts created by the Parliament—

Judges'  
appointment,  
tenure and  
remuneration.

- (i.) Shall be appointed by the Governor-General in Council:
- (ii.) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:
- (iii.) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

The appointment of a Justice of the High Court shall be for a term expiring upon his attaining the age of seventy years, and a person shall not be appointed as a Justice of the High Court if he has attained that age.

Paragraph  
added by No. 83,  
1977, s. 2.

The appointment of a Justice of a court created by the Parliament shall be for a term expiring upon his attaining the age that is, at the time of his appointment, the maximum age for Justices of that court and a person shall not be appointed as a Justice of such a court if he has attained the age that is for the time being the maximum age for Justices of that court.

Paragraph  
added by No. 83,  
1977, s. 2.

Subject to this section, the maximum age for Justices of any court created by the Parliament is seventy years.

Paragraph  
added by No. 83,  
1977, s. 2.

The Parliament may make a law fixing an age that is less than seventy years as the maximum age for Justices of a court created by the Parliament and may at any time repeal or amend such a law, but

Paragraph  
added by No. 83,  
1977, s. 2.

any such repeal or amendment does not affect the term of office of a Justice under an appointment made before the repeal or amendment.

Paragraph  
added by No. 83,  
1977, s. 2.

A Justice of the High Court or of a court created by the Parliament may resign his office by writing under his hand delivered to the Governor-General.

Paragraph  
added by No. 83,  
1977, s. 2.

Nothing in the provisions added to this section by the *Constitution Alteration (Retirement of Judges) 1977* affects the continuance of a person in office as a Justice of a court under an appointment made before the commencement of those provisions.

Paragraph  
added by No. 83,  
1977, s. 2.

A reference in this section to the appointment of a Justice of the High Court or of a court created by the Parliament shall be read as including a reference to the appointment of a person who holds office as a Justice of the High Court or of a court created by the Parliament to another office of Justice of the same court having a different status or designation.

Appellate  
jurisdiction of  
High Court.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

- (i.) Of any Justice or Justices exercising the original jurisdiction of the High Court;
  - (ii.) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council;
  - (iii.) Of the Inter-State Commission, but as to questions of law only;
- and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

Appeal to  
Queen in  
Council.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising,

as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked,<sup>13</sup> but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

75. In all matters—

- (i.) Arising under any treaty:
- (ii.) Affecting consuls or other representatives of other countries:
- (iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
- (iv.) Between States, or between residents of different States, or between a State and a resident of another State:
- (v.) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

Original jurisdiction of High Court.

the High Court shall have original jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter—

- (i.) Arising under this Constitution, or involving its interpretation:
- (ii.) Arising under any laws made by the Parliament:
- (iii.) Of Admiralty and maritime jurisdiction:
- (iv.) Relating to the same subject-matter claimed under the laws of different States.

Additional original jurisdiction.

77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws—

- (i.) Defining the jurisdiction of any federal court other than the High Court:
- (ii.) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:

Power to define jurisdiction.



(iii.) Investing any court of a State with federal jurisdiction.

Proceedings  
against Com-  
monwealth or  
State.

78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

Number of  
judges.

79. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

Trial by jury.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

Chap. IV.  
Finance and  
Trade.

#### CHAPTER IV.

#### FINANCE AND TRADE.

Consolidated  
Revenue Fund.

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

Expenditure  
charged  
thereon.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

Money to be  
appropriated  
by law.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

Transfer of  
officers.

84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth—

Transfer of  
property of  
State.

- (i.) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:
- (ii.) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:
- (iii.) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:
- (iv.) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

**86.** On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

**87.** During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

Uniform duties  
of customs.

**88.** Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

Payment to  
States before  
uniform duties.

**89.** Until the imposition of uniform duties of customs—

(i.) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(ii.) The Commonwealth shall debit to each State—

(a) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;

(b) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.

(iii.) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

Exclusive  
power over  
customs, excise,  
and bounties.

**90.** On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

Exceptions as  
to bounties.

**91.** Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from

granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Trade within the Commonwealth to be free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides—

Payment to States for five years after uniform tariffs.

(i.) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:

(ii.) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

Distribution of surplus.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

Customs duties of Western Australia.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

Financial assistance to States.

**96.** During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

Audit.

**97.** Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

Trade and commerce includes navigation and State railways.

**98.** The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

Commonwealth not to give preference.

**99.** The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

Nor abridge right to use water.

**100.** The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

Inter-State Commission.

**101.** There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

Parliament may forbid preferences by State.

**102.** The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

**103.** The members of the Inter-State Commission—

- (i.) Shall be appointed by the Governor-General in Council;
- (ii.) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity;
- (iii.) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

Commissioners' appointment, tenure, and remuneration.

**104.** Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

Saving of certain rates.

**105.** The Parliament may take over from the States their public debts ~~as existing at the establishment of the Commonwealth~~, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

Taking over public debts of States.  
Altered by No. 3, 1910, s. 2.

**105A.**—(1.) The Commonwealth may make agreements with the States with respect to the public debts of the States, including—

- (a) the taking over of such debts by the Commonwealth;
- (b) the management of such debts;
- (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) the consolidation, renewal, conversion, and redemption of such debts;
- (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

Agreements with respect to State debts.  
Inserted by No. 1, 1929, s. 2.

(2.) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3.) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4.) Any such agreement may be varied or rescinded by the parties thereto.

(5.) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6.) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

Chap. V.  
The States.

## CHAPTER V.

### THE STATES.

Saving of  
Constitutions.

**106.** The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

Saving of  
Power of State  
Parliaments.

**107.** Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

Saving of State  
laws.

**108.** Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

**109.** When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Inconsistency of laws.

**110.** The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

Provisions referring to Governor.

**111.** The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

States may surrender territory.

**112.** After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

States may levy charges for inspection laws.

**113.** All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

Intoxicating liquids.

**114.** A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

States may not raise forces. Taxation of property of Commonwealth or State.

**115.** A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

States not to coin money.

**116.** The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

Commonwealth not to legislate in respect of religion.

**117.** A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

Rights of residents in States.



Recognition of laws, &c. of States.

**118.** Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

Protection of States from invasion and violence.

**119.** The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

Custody of offenders against laws of the Commonwealth.

**120.** Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

Chap. VI.  
New States.

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## CHAPTER VI.

### NEW STATES.

New States may be admitted or established.

**121.** The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

Government of territories.

**122.** The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

Alteration of limits of States.

**123.** The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

Formation of new States.

**124.** A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

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CHAPTER VII.

Chap. VII.  
Miscellaneous.

MISCELLANEOUS.

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Seat of  
Government.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

126. The Queen may authorise the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies<sup>14</sup> within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

Power to Her  
Majesty to  
authorise  
Governor-  
General to  
appoint  
deputies.

15 \* \* \* \* \*

Section 127  
repealed by No.  
55, 1967, s. 3.

CHAPTER VIII.

Chap. VIII.  
Alteration of  
Constitution.

ALTERATION OF THE CONSTITUTION.

128.<sup>1</sup> This Constitution shall not be altered except in the following manner:—

Mode of  
altering the  
Constitution.

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State and Territory to the electors qualified to vote for the election of members of the House of Representatives.

Paragraph altered  
by No. 84, 1977,  
s. 2

Paragraph altered  
by No. 84, 1977.  
s. 2.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State and Territory qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

Paragraph  
added by No. 84,  
1977, s. 2.

In this section, "Territory" means any territory referred to in section one hundred and twenty-two of this Constitution in respect of which there is in force a law allowing its representation in the House of Representatives.

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SCHEDULE.

OATH.

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. SO HELP ME GOD!

AFFIRMATION.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

(NOTE.— *The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*)

NOTES

- The Constitution as printed above contains all the alterations of the Constitution made up to 31 October 1993. Particulars of the Acts by which the Constitution was altered are as follows:

Act	Number and year	Date of Assent
<i>Constitution Alteration (Senate Elections) 1906</i>	1, 1907	3 Apr 1907
<i>Constitution Alteration (State Debts) 1909</i>	3, 1910	6 Aug 1910
<i>Constitution Alteration (State Debts) 1928</i>	1, 1929	13 Feb 1929
<i>Constitution Alteration (Social Services) 1946</i>	81, 1946	19 Dec 1946
<i>Constitution Alteration (Aboriginals) 1967</i>	55, 1967	10 Aug 1967
<i>Constitution Alteration (Senate Casual Vacancies) 1977</i>	82, 1977	29 July 1977
<i>Constitution Alteration (Retirement of Judges) 1977</i>	83, 1977	29 July 1977
<i>Constitution Alteration (Referendums) 1977</i>	84, 1977	29 July 1977

- Covering Clause 3—The Proclamation under covering clause 3 was made on 17 September 1900 and is published in *Gazette* 1901, p. 1 and *infra* p. 41.
- Covering Clause 5—*Cf. the Statute of Westminster Adoption Act 1942, infra* p. 47.
- Covering Clause 7—The following Acts have repealed Acts passed by the Federal Council of Australasia:  
*Defence Act 1903* (No. 20, 1903), s. 6.  
*Pearl Fisheries Act 1952* (No. 8, 1952), s. 3. (*Pearl Fisheries Act 1952* repealed by *Continental Shelf (Living Natural Resources) Act 1968*, s. 3.)  
*Service and Execution of Process Act 1901* (No. 11, 1901), s. 2. (S. 2 subsequently repealed by *Service and Execution of Process Act 1963*, s. 3.)
- S. 7—The number of senators for each State was increased to 12 by the *Representation Act 1983*, s. 3.
- S. 9—The following State Acts have been passed in pursuance of the powers conferred by s. 9:

*The Constitution*

## NOTES—continued

State	Number	Short title	How affected
New South Wales	No. 73, 1900	Federal Elections Act, 1900	Ss. 2, 3, 4, 5 and 6 and the Schedule repealed by No. 9, 1903; wholly repealed by No. 41, 1912
	No. 9, 1903	Senators' Elections Act, 1903	Amended by No. 75, 1912 and No. 112, 1984
	No. 75, 1912	Senators' Elections (Amendment) Act, 1912	<i>(Still in force)</i>
	No. 112, 1984	Senators' Elections (Amendment) Act, 1984	<i>(Still in force)</i>
Victoria . . . .	No. 1715	<i>Federal Elections Act 1900</i>	Repealed by No. 1860
	No. 1860	<i>Senate Elections (Times and Places) Act 1903</i>	Repealed by No. 2723
	No. 2399	<i>Senate Elections (Times and Places) Act 1912</i>	Repealed by No. 2723
	No. 2723	<i>Senate Elections (Times and Places) Act 1915</i>	Repealed by No. 3769
	No. 3769	<i>Senate Elections (Times and Places) Act 1928</i>	Repealed by No. 6365
	No. 6365	<i>Senate Elections Act 1958</i>	Amended by No. 10108
	No. 10108	<i>Senate Elections (Amendment) Act, 1984</i>	<i>(Still in force)</i>
Queensland . . . .	64 Vic. No. 25	<i>The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900</i>	Operation exhausted
	3 Edw. VII. No. 6	<i>The Election of Senators Act of 1903</i>	Repealed by 9 Eliz. II. No. 20
	9 Eliz. II. No. 20	<i>The Senate Elections Act of 1960</i>	Amended by No. 79, 1984
	No. 79, 1984	<i>Senate Elections Act Amendment Act 1984</i>	<i>(Still in force)</i>
South Australia . . .	No. 834	The Election of Senators Act, 1903	Amended by No. 4, 1978, No. 37, 1981 and No. 80, 1984
	No. 4, 1978	The Election of Senators Act Amendment Act, 1978	<i>(Still in force)</i>
	No. 37, 1981	Election of Senators Act Amendment Act, 1981	<i>(Still in force)</i>
	No. 80, 1984	Election of Senators Act Amendment Act, 1984	<i>(Still in force)</i>
Western Australia	No. 11, 1903	<i>Election of Senators Act, 1903</i>	Amended by No. 27, 1912 and No. 86, 1984
	No. 27, 1912	<i>Election of Senators Amendment Act, 1912</i>	<i>(Still in force)</i>
	No. 86, 1984	<i>Election of Senators Amendment Act 1984</i>	<i>(Still in force)</i>

NOTES—continued

State	Number	Short title	How affected
Tasmania . . . .	64 Vic. No. 59	The Federal Elections Act, 1900	Repealed by 26 Geo. V. No. 3
	3 Edw. VII. No. 5	The Election of Senators Act, 1903	Repealed by 26 Geo. V. No. 3
	26 Geo. V. No. 3	Senate Elections Act 1935	Amended by No. 63, 1984
	No. 63, 1984	Senate Elections Amendment Act 1984	(Still in force)

7. S. 14— For the provisions applicable upon the increase in the number of senators to 12 made by the *Representation Act 1983*, see s. 3 of that Act.
8. Section 15, before its substitution by the *Constitution Alteration (Senate Casual Vacancies) 1977*, provided as follows:
 

“15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

“At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

“The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.”
9. S. 15—The proposed law to alter the Constitution entitled “*Constitution Alteration (Simultaneous Elections) 1977*” was submitted to the electors in each State of the Commonwealth on 21 May 1977: it was not approved by a majority of all the electors voting in a majority of the States. See *Gazette* 1977, No. S100, p. 1.
10. S. 29—The following State Acts were passed in pursuance of the powers conferred by s. 29, but ceased to be in force upon the enactment of the *Commonwealth Electoral Act 1902*:

State	Number	Short title
New South Wales	No. 73, 1900	Federal Elections Act, 1900
Victoria	No. 1667	Federal House of Representatives Victorian Electorates Act 1900
Queensland	64 Vic. No. 25	The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900
Western Australia	64 Vic. No. 6	Federal House of Representatives Western Australian Electorates Act, 1900

## NOTES—continued

11. S. 51—The following Imperial Acts extended the legislative powers of the Parliament:  
 Whaling Industry (Regulations) Act, 1934, s. 15  
 Geneva Convention Act, 1937, s. 2  
 Emergency Powers (Defence) Act, 1939, s. 5  
 Army and Air Force (Annual) Act, 1940, s. 3.

12. S. 51 (xxxvii.)—The following Acts have been passed by the Parliaments of the States to refer matters to the Parliament under section 51 (xxxvii.):

State	Number	Short title	How affected
New South Wales . . . . .	No. 65, 1915	Commonwealth Powers (War) Act, 1915	Expired 9 Jan 1921; see s. 5
	No. 33, 1942	Commonwealth Powers Act, 1942	Expired; see s. 4
	No. 18, 1943	Commonwealth Powers Act, 1943	Expired; see s. 4
	No. 48, 1983	Commonwealth Powers (Meat Inspection) Act, 1983	(Still in force)
Victoria . . . . .	No. 3108	Commonwealth Powers (Air Navigation) Act 1920	Repealed by No. 4502
	No. 3658	Commonwealth Arrangements Act 1928 (Part III)	Repealed by No. 4502
	No. 4009	Debt Conversion Agreement Act 1931 (No. 2)	(Still in force)
	No. 4950	Commonwealth Powers Act 1943	Not proclaimed to come into operation and cannot now be so proclaimed
Queensland . . . . .	12 Geo. V. No. 30	The Commonwealth Powers (Air Navigation) Act of 1921	Repealed by 1 Geo. VI. No. 8
	22 Geo. V. No. 30	The Commonwealth Legislative Power Act, 1931	Repealed by No. 46, 1983
	7 Geo. VI. No. 19	Commonwealth Powers Act 1943	Expired; see s. 4
	14 Geo. VI. No. 2	The Commonwealth Powers (Air Transport) Act of 1950	(Still in force)
South Australia . . . . .	No. 1469, 1921	Commonwealth Powers (Air Navigation) Act, 1921	Repealed by No. 2352, 1937
	No. 2061, 1931	Commonwealth Legislative Power Act, 1931	(Still in force)
	No. 3, 1943	Commonwealth Powers Act 1943	Expired; see s. 5
Western Australia . . . . .	No. 4, 1943	Commonwealth Powers Act, 1943	Repealed by No. 58, 1965
	No. 57, 1945	Commonwealth Powers Act, 1945	Repealed by No. 58, 1965
	No. 30, 1947	Commonwealth Powers Act, 1943, Amendment Act, 1947	Repealed by No. 58, 1965
	No. 31, 1947	Commonwealth Powers Act, 1945, Amendment Act, 1947	Repealed by No. 58, 1965

NOTES—continued

State	Number	Short title	How affected
	No. 73, 1947	<i>Commonwealth Powers Act, 1945, Amendment Act, (No. 2), 1947</i>	Repealed by No. 58, 1965
	No. 81, 1947	<i>Commonwealth Powers Act, 1945-1947, Amendment (Continuance) Act, 1947</i>	Repealed by No. 58, 1965
Tasmania . . . .	11 Geo. V. No. 42	<i>Commonwealth Powers (Air Navigation) Act, 1920</i>	Repealed by 1 Geo. VI. No. 14
	No. 46, 1952	<i>Commonwealth Powers (Air Transport) Act 1952</i>	(Still in force)
	No. 62, 1966	<i>Commonwealth Powers (Trade Practices) Act 1966</i>	Expired; see s. 2

13. S. 74—See *Privy Council (Limitation of Appeals) Act 1968*, *Privy Council (Appeals from the High Court) Act 1975* and *Kirmani v Captain Cook Cruises Pty Ltd* (No. 2); *Ex parte Attorney-General (QLD)* (1985) 58 ALR 108.
14. S. 126—See clause IV of the Letters Patent relating to the Office of Governor-General, published in *Gazette* 1984, S334, pp. 3 and 4 and *infra* p. 44.
15. Section 127, before its repeal by the *Constitution Alteration (Aboriginals) 1967*, provided as follows:
 

“127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.”



*Proclamation Declaring Establishment of Commonwealth*

PROCLAMATION UNITING THE PEOPLE OF NEW SOUTH WALES,  
VICTORIA, SOUTH AUSTRALIA, QUEENSLAND, TASMANIA, AND  
WESTERN AUSTRALIA IN A FEDERAL COMMONWEALTH.

*(Imperial Statutory Rules and Orders, Revised 1948, Vol. II.,  
Australia, p. 1027.)  
1900 No. 722.*

AT THE COURT AT BALMORAL,

The 17th day of September, 1900.

PRESENT:

The Queen's Most Excellent Majesty in Council.

The following Draft Proclamation was this day read at the Board and approved:—

A. W. FITZROY.

BY THE QUEEN.

PROCLAMATION

WHEREAS by an Act of Parliament passed in the sixty-third and sixty-fourth years of Our Reign intituled, "An Act to constitute the Commonwealth of Australia," it is enacted that it shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia:

And whereas We are satisfied that the people of Western Australia have agreed thereto accordingly:

We, therefore, by and with the advice of Our Privy Council, have thought fit to issue this Our Royal Proclamation, and We do hereby declare that on and after the first day of January, One thousand nine hundred and one, the people of New South Wales, Victoria, South Australia, Queensland, Tasmania, and Western Australia shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia.

Given at Our Court at Balmoral, this seventeenth day of September,  
in the year of Our Lord One thousand nine hundred and in the sixty-fourth year of Our Reign.

GOD SAVE THE QUEEN!

# **ANNEXURE 2**

I. The Act of Settlement , 1701



## Act of Settlement, 1701

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Whereas in the first year of the reign of Your Majesty, and of our late most gracious sovereign lady Queen Mary (of blessed memory), an Act of Parliament was made, entitled, "An Act for declaring the rights and liberties of the subject, and for settling the succession of the crown," wherein it was (amongst other things) enacted, established, and declared that the crown and regal government of the Kingdoms of England, France, and Ireland, and the dominions thereunto belonging, should be and continue to Your Majesty and the said late Queen, during the joint lives of Your Majesty and the said Queen, and to the survivor: and that after the decease of Your Majesty and of the said Queen, the said Crown and regal government should be and remain to the heirs of the body of the said late Queen; and for default of such issue, to Her Royal Highness the Princess Anne of Denmark, and the heirs of her body; and for default of such issue to the heirs of the body of Your Majesty. And it was thereby further enacted, that all and every person and persons that then were, or afterwards should be reconciled to, or shall hold communion with the see or Church of Rome, or should profess the popish religion, or marry a papist, should be excluded, and are by that Act made for ever incapable to inherit, possess, or enjoy the Crown and government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same: and in all and every such case and cases the people of these realms shall be and are thereby absolved of their allegiance: and that the said Crown and government shall from time to time descend to and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person or persons, so reconciled, holding communion, professing or marrying, as aforesaid, were naturally dead:

After the making of which statute, and the settlement therein contained, your majesty's good subjects, who were restored to the full and free possession and enjoyment of their religion, rights, and liberties, by the providence of God giving success to your majesty's just undertakings and unwearied endeavours for that purpose, had no greater temporal felicity to hope or wish for, that to see a royal progeny descending from Your Majesty, to whom (under God) they owe their tranquillity, and whose ancestors have for many years been principal assertors of the reformed religion and the liberties of Europe, and from our said most gracious sovereign lady, whose memory will always be precious to the subjects of these realms: and it having since pleased Almighty God to take away our said sovereign Lady, and also the most hopeful Prince William, Duke of Gloucester (the only surviving issue of Her Royal Highness the Princess Anne of Denmark) to the unspeakable grief and sorrow of Your Majesty and your said good subjects, who under such losses being sensibly put in mind, that it standeth wholly in the pleasure of Almighty God to prolong the lives of Your Majesty and of Her Royal Highness, and to grant to Your Majesty, or to Her Royal Highness, such issue as may be inheritable to the Crown and regal government aforesaid, by the respective limitations in the said recited act contained, do constantly implore the divine mercy for those blessings: and Your Majesty's said subjects having daily experience of your royal care and concern for the present and future welfare of these Kingdoms, and particularly recommending from your throne a further provision to be made for the succession of the Crown in the Protestant line, for the happiness of the nation, and the security of our religion; and it being absolutely necessary for the safety, peace, and quiet of this

realm, to obviate all doubts and contentions in the same, by reason of any pretended title to the Crown, and to maintain a certainty in the succession thereof, to which your subjects may safely have recourse for their protection, in case the limitations in the said recited act should determine: therefore for a further provision of the succession of the Crown in the Protestant line, we Your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, do beseech Your Majesty that it may be enacted and declared, and be it enacted and declared by the King's most excellent majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the most excellent Princess Sophia, Electress and Duchess Dowager of Hanover, daughter of the most excellent Princess Elizabeth, late Queen of Bohemia, daughter of our late sovereign lord King James the First, of happy memory, be and is hereby declared to be the next in succession, in the Protestant line, to the imperial Crown and dignity of the said Realms of England, France, and Ireland, with the dominions and territories thereunto belonging, after His Majesty, and the Princess Anne of Denmark, and in default of issue of the said Princess Anne, and of His Majesty respectively: and that from and after the deceases of His said Majesty, our now sovereign lord, and of Her Royal Highness the Princess Anne of Denmark, and for default of issue of the said Princess Anne, and of His Majesty respectively, the Crown and regal government of the said Kingdoms of England, France, and Ireland, and of the dominions thereunto belonging, with the royal state and dignity of the said Realms, and all honours, styles, titles, regalities, prerogatives, powers, jurisdictions and authorities, to the same belonging and appertaining, shall be, remain, and continue to the said most excellent Princess Sophia, and the heirs of her body, being Protestants: and thereunto the said Lords Spiritual and Temporal, and Commons, shall and will in the name of all the people of this Realm, most humbly and faithfully submit themselves, their heirs and posterities: and do faithfully promise, that after the deceases of His Majesty, and Her Royal Highness, and the failure of the heirs of their respective bodies, to stand to, maintain, and defend the said Princess Sophia, and the heirs of her body, being Protestants, according to the limitation and succession of the Crown in this act specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

II. Provided always, and be it hereby enacted, That all and every person and persons, who shall or may take or inherit the said Crown, by virtue of the limitation of this present act, and is, are or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the popish religion, or shall marry a papist, shall be subject to such incapacities, as in such case or cases are by the said recited act provided, enacted, and established; and that every King and Queen of this Realm, who shall come to and succeed in the imperial Crown of this Kingdom, by virtue of this act, shall have the coronation oath administered to him, her or them, at their respective coronations, according to the act of Parliament made in the first year of the reign of His Majesty, and the said late Queen Mary, intituled, *An act for establishing the coronation oath*, and shall make, subscribe, and repeat the declaration in the act first above recited mentioned or referred to, in the manner and form thereby prescribed.

III. And whereas it is requisite and necessary that some further provision be made for securing our religion, laws and liberties, from and after the death of His Majesty and the Princess Anne of Denmark, and in default of issue of the body of the said Princess, and of His Majesty respectively; be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same,

That whosoever shall hereafter come to the possession of this Crown, shall join in communion with the Church of England, as by law established;

That in case the Crown and imperial dignity of this Realm shall hereafter come to any person, not being a native of this Kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament;

That no person who shall hereafter come to the possession of this Crown, shall go out of the dominions of England, Scotland, or Ireland, without the consent of Parliament;

That from and after the time that the further limitation by this act shall take effect, all matters and things relating to the well governing of this Kingdom, which are properly cognizable in the Privy Council by the laws and customs of this Realm, shall be translated there, and all resolutions taken thereupon shall be signed by such of the Privy Council as shall advise and consent to the same;

That after the said limitation shall take effect as aforesaid, no person born out of the Kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalized or made a denizen, except such as are born of English parents) shall be capable to be of the Privy Council, or a member of either House of Parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands, tenements or hereditaments from the Crown, to himself or to any other or others in trust for him;

That no person who has an office or place of profit under the King, or receives a pension from the Crown, shall be capable of serving as a member of the House of Commons;

That after the said limitation shall take effect as aforesaid, judges commissions be made *quamdiu se bene gesserint*, and their salaries ascertained and established; but upon the address of both Houses of Parliament it may be lawful to remove them;

That no pardon under the Great Seal of England be pleadable to an impeachment by the Commons in Parliament.

IV. And whereas the laws of England are the birth-right of the people thereof, and all the Kings and Queens, who shall ascend the throne of this Realm, ought to administer the government of the same according to the said laws, and all their officers and ministers ought to serve them respectively according to the same: the said Lords Spiritual and Temporal, and Commons, do therefore further humbly pray, That all the laws and statutes of this Realm for securing the established religion, and the rights and liberties of the people thereof, and all other laws and statutes of the same now in force, may be ratified and confirmed, and the same are by His Majesty, by and with the advice of the said Lords Spiritual and Temporal, and Commons, and by authority of the same, ratified and confirmed accordingly.

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# **ANNEXURE 3**

1. Letter from Australian Parliament House confirming obligatory nature of the Oath and Affirmation to be sworn and signed by all Parliamentary members.



10 JUN 1999

Mr Peter Batten  
PO Box 23A  
SOMERS  
Vic 3927

Dear Mr Batten

Your letter dated 31 May 1999 to the Australian Electoral Commission on the subject of Members' oaths or affirmations of allegiance was referred to the Department of the House of Representatives for answer in respect of Members of the House.

An oath or affirmation of allegiance by Members and Senators is a requirement of the Australian Constitution. No provisions of the *Commonwealth Electoral Act 1918* are involved. Section 42 of the Constitution states:

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

The wording of the oath or affirmation is set out in the schedule to the Constitution, as follows:

OATH

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. SO HELP ME GOD!

AFFIRMATION

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

(NOTE - The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.)

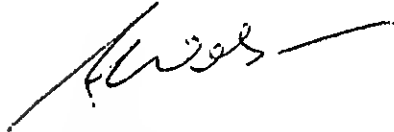
There is no provision for any deviation from this constitutional requirement. No Member may take part in proceedings of the House until sworn in.

The standing orders of the House state in relation to a new Parliament that Members shall 'be sworn, or make affirmation, as prescribed by the Constitution'. Although no more detailed procedures are specified, either in the standing orders or elsewhere, the traditional practice is as follows.

The oath or affirmation of allegiance taken by newly elected Members at the beginning of a Parliament is administered by a person authorised to do so by the Governor-General. This is traditionally a Justice of the High Court. The judge is escorted into the Chamber and to the Speaker's Chair by the Serjeant-at-Arms. The Clerk reads to the House the commission from the Governor-General authorising the judge to administer the oath or affirmation and then tables the returns to the writs for the general election, showing the Member elected for each electoral Division. Members are called by the Clerk in turn and approach the Table in groups of approximately ten to twelve, make their oath or affirmation, sign (subscribe) the oath or affirmation form and then return to their seats. The Ministry is usually sworn in first, followed by the opposition executive and then other Members.

Members not sworn in initially may be sworn in later in the day's proceedings or on a subsequent sitting day by the Speaker. The Speaker receives, after his or her appointment, a commission from the Governor-General to administer the oath or affirmation. Those Members elected at by-elections during the course of a Parliament are also sworn in by the Speaker.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robyn Webber', with a long horizontal flourish extending to the right.

Robyn Webber  
Director  
Chamber Research Office



# **ANNEXURE 4**

1. Extract from High Court of Australia Judgement in Sue v Hill  
HCA 30 of 23rd june 1999

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**AUSTRALIA**  
The concealed colony



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## Sue v Hill [1999] HCA 30 (23 June 1999)

Last Updated: 23 June 1999

# HIGH COURT OF AUSTRALIA

GLEESON CJ,

GAUDRON, McHUGH, GUMMOW, KIRBY, HAYNE AND CALLINAN JJ

Matter No S179/1998

HENRY (NAI LEUNG) SUE PETITIONER

AND

HEATHER HILL & ANOR RESPONDENTS

Matter No B49/1998

TERRY PATRICK SHARPLES PETITIONER

AND

HEATHER HILL & ANOR RESPONDENTS

*Sue v Hill* [1999] HCA 30

23 June 1999

S179/1998 and B49/1998

### ORDER

1. Answer the questions reserved in each stated case as follows:

(a) Does s 354 of the Act validly confer upon the Court of Disputed Returns jurisdiction to determine the issues raised in the Petition?

Answer: Yes

citizen or entitled to the rights and privileges of a subject or citizen. That is, the inquiry is not about whether Australia's relationships with that power are friendly or not, close or distant, or meet any other qualitative description. Rather, the words invite attention to questions of international and domestic sovereignty[50].

49. Further, because the question is whether, at the material time, the United Kingdom answered the description of "a foreign power" in s 44(i), it is not useful to ask whether that question could have been easily answered at some earlier time, any more than it is useful to ask whether it is easily answered now. No doubt individuals will be directly affected by the answer that is given and, to that extent, their rights, duties and privileges may be affected. But any difficulty in deciding whether the United Kingdom did answer the description at the material time, or in deciding when it first answered that description, does not relieve this Court of the task of answering the question that now is presented.

#### Constitutional interpretation

50. In *Bonser v La Macchia*, Windeyer J referred to Australia having become "by international recognition ... competent to exercise rights that by the law of nations are appurtenant to, or attributes of, sovereignty"[51]. His Honour regarded this state of affairs as an instance where "[t]he law has followed the facts"[52]. It will be apparent that these facts, forming part of the "march of history"[53], received judicial notice[54]. They include matters and circumstances external to Australia but in the light of which the Constitution continues to have its effect and, to repeat Windeyer J's words[55], "[t]he words of the Constitution must be read with that in mind".
51. There is nothing radical in doing as Windeyer J said; it is intrinsic to the Constitution. What has come about is an example of what Story J foresaw (and Griffith CJ repeated[56]) with respect to the United States Constitution[57]:

"The instrument was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence."

52. The changes to which Windeyer J referred did not require amendment to the text of the Constitution. Rather, they involved[58]:

"in part, the abolition of limitations on constitutional power that were imposed from outside the Constitution, such as the *Colonial Laws Validity Act 1865* (Imp) and restricting what otherwise would have been the proper interpretation of the Constitution, by virtue of Australia's status as part of the Empire. When the Empire ended and national status emerged, the external restrictions ceased, and constitutional powers could be given their full scope."

#### Changes in the United Kingdom

53. So also with respect to changes in the constitutional arrangements in the United Kingdom itself. The condition of those arrangements at any one time may be difficult to perceive by reason of the lack of any single instrument answering the description of a written constitution. Nevertheless, it is readily apparent from judicial decisions in the United Kingdom that the

96. The point of immediate significance is that the circumstance that the same monarch exercises regal functions under the constitutional arrangements in the United Kingdom and Australia does not deny the proposition that the United Kingdom is a foreign power within the meaning of s 44(i) of the Constitution. Australia and the United Kingdom have their own laws as to nationality<sup>[132]</sup> so that their citizens owe different allegiances. The United Kingdom has a distinct legal personality and its exercises of sovereignty, for example in entering military alliances, participating in armed conflicts and acceding to treaties such as the Treaty of Rome<sup>[133]</sup>, themselves have no legal consequences for this country. Nor, as we have sought to demonstrate in Section III, does the United Kingdom exercise any function with respect to the governmental structures of the Commonwealth or the States.
97. As indicated earlier in these reasons, we would give an affirmative answer to the question in each stated case which asks whether Mrs Hill, at the date of her nomination, was a subject or citizen of a foreign power within the meaning of s 44(i) of the Constitution.
98. GAUDRON J. In each of these matters a case has been stated for the consideration of the Full Court pursuant to s 18 of the *Judiciary Act 1903* (Cth)<sup>[134]</sup>. Each matter arises out of the 1998 election for the return of six Senators for the State of Queensland to serve in the Parliament of the Commonwealth. The writ for the election was issued on 31 August 1998. Pursuant to the writ, nominations were made on or before 10 September and the election was held on 3 October 1998. Following the counting of votes, the Governor of Queensland certified, on 26 October 1998, that Mrs Heather Hill, the first respondent in each matter, was duly elected as the third Senator. Messrs Ludwig, Mason and Woodley were certified as duly elected as the fourth, fifth and sixth Senators respectively.
99. The cases have been stated in separate proceedings commenced by the petitioners, Mr Sue and Mr Sharples. They invoke the jurisdiction purportedly conferred on this Court by s 354 of the *Commonwealth Electoral Act 1918* (Cth) ("the Act"). I say "purportedly conferred" because question (a) in each of the cases stated asks:

"Does s 354 of the Act validly confer upon the Court of Disputed Returns jurisdiction to determine the issues raised in the Petition?"

Necessarily, that question must be answered first. Before turning to that question, however, it is convenient to refer to the nature of the challenge made by the petitioners and the facts by reference to which each challenge is made.

#### Nature of the challenge

100. Each petitioner challenges Mrs Hill's election on the basis that, at the time of her nomination, she did not satisfy the requirements of s 44(i) of the Constitution. Section 44 relevantly provides:
- " Any person who:
- (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; ...

# **ANNEXURE 5**

## Documents re International Court of Justice

1. Letter of introduction.
2. Application and petition.
3. Orders sought.
4. Affidavit.



# Institute of Taxation Research

8<sup>th</sup>. June 1999

The President,  
The International Court of Justice  
The Hague,  
Netherlands.

Dear Sir,

We hereby place in your hands an unusual but highly important application based on the provisions of two major treaties and the basic principles of national sovereignty, which underlie international law.

The application is not made in the name of a government of the Nation State of Australia, since we are convinced that any governmental power of this nation state remains dormant and unexercisable in the absence of a plebiscite of the Australian people under which we could authorise a national government to be formed.

We have been informed by the United Nations that the Australian people, rather than the government, are the state. The Application is therefore made on their behalf. It is not made in the interests of any one section and our desire is the establishment of a legal political and judicial system in Australia to provide peace, order, and good government. In particular we desire a judicial system in which truth and justice are the most important elements rather than those dominating the existing illegal system run for the benefit of those who preside over it and those who work within it.

To assist the court we have also requested the assistance of a number of other powers in bringing this matter to a hearing. All of the powers approached are signatories to either or both of the principal treaties cited and therefore are bound to see the treaty provisions upheld.

Those of us who are desirous of a peaceful outcome believe that the issues of international law involved are so fundamental that an early decision by the Honourable Court would be relatively straightforward. Armed with such a decision we know the Australian people could then rectify the situation with minimal levels of disturbance.

We therefore place the matter in your hands in the knowledge that all the domestic remedies in Australia have been exhausted and that the Australian courts are sworn to uphold the domination of a foreign government and system.

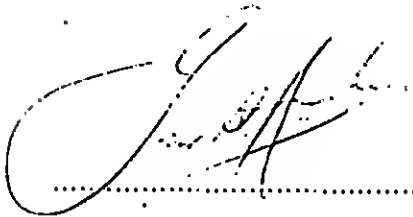
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Unit 117, MacTaggart's Place  
53 Vernon Terrace  
Teneriffe Wharves QLD 4005  
Email [itr@hypermax.net.au](mailto:itr@hypermax.net.au)

Tel (03) 8796 3311  
Fax (03) 8796 3322  
7 Apsley Place PO Box 9112  
Seaford Mail Centre  
Seaford VIC 3198  
Email [taxres@hotmail.com](mailto:taxres@hotmail.com)

A number of senior members of the legal profession have volunteered to present the case to the Honourable Court on behalf of the Australian people and in addition there have been sufficient contributions to ensure the full carriage of the matters.

The people of Australia place their trust in the deliberations of the Court in the belief that the International Court of Justice alone can provide the justice they seek.

Signed on behalf of the citizens of Australia



.....



.....

**IN THE INTERNATIONAL COURT OF JUSTICE  
AT THE HAGUE**

**No.                      of 1999**

In the matter of an Application under Article 36 of the Statute

Between

**THE SOVEREIGN PEOPLE OF AUSTRALIA**

Applicant

And

**THE PARLIAMENT AND GOVERNMENT OF THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Respondent

**APPLICATION AND PETITION**

We, the Sovereign People of Australia humbly petition the Honourable Court to cause to appear before it representatives of the Parliament and Government of the United Kingdom of Great Britain and Northern Ireland in a matter involving the sustained and deliberate breaches of Articles X, XVIII, and XX of the Covenant of the League of Nations and Articles 2, 4, 6, 102 and 103 of the Charter of the United Nations in that they have promoted maintained and succoured an illegal colonial regime within the sovereign territory of Australia, and that they have deliberately and sustainedly created and maintained laws of the Imperial Parliament of the United Kingdom of Great Britain and Northern Ireland whose sole purpose was the continued subjugation of peoples not lawfully under the sovereign authority of the said parliament.

Further that they, and their de facto colonial government of the Commonwealth of Australia, and their colonial governments of the component states therein, acting without ever having acquired the permission of the Australian people to exercise their sovereign power, have oppressed the sovereign people of Australia in divers ways as shown in the particulars hereunder.

Under the powers conferred on this Honourable Court under Article 36 of its Statute relating to its sole and compulsory jurisdiction over matters involving treaties and breaches thereof we request that the court hear our petition, brought forward with the assistance of the governments of other nation signatories to the above treaties under whose terms they are duty bound to defend the political independence of the nation of Australia.

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## PARTICULARS

1. The Commonwealth of Australia was formed as a colonial federation of six British Colonies under the Act to Constitute the Commonwealth of Australia 1900 (UK), an Act under domestic British law passed by the Imperial Parliament of the United Kingdom in July 1900 coming into effect on 1 January, 1901.
2. Despite recognition by the other nations of the world as an independent nation Australia is still governed today under this Act of British domestic law in contravention of international law and practice. The power of repeal and therefore of sovereignty over the Act remains solely with the Government and Parliament of the United Kingdom.
3. By the preamble to this Act the Commonwealth was established under the sovereignty of the United Kingdom of Great Britain and Ireland, a legal entity which ceased to exist upon attainment of independence by the Irish Free State on 15<sup>th</sup>. January 1922 when "Ireland" ceased to exist.
4. The aforesaid Act is determined in such ways as to ensure the permanent retention of executive power by the United Kingdom by establishing eight (8) preliminary sections which the colonial government had no rights to adjust or alter and a ninth section being the Constitution under which the Commonwealth would be administered.
5. The eight preliminary sections, known in Australian law as the Covering Clauses, ensure that the "Commonwealth" as an entity established under Section 6 must be as defined in the Act and Constitution. In Section 8 the Commonwealth is defined as a "self governing colony", which is a true and fair description of the Commonwealth as established.
6. Under the provisions of Section 2 permanently establishing the Crown of the United Kingdom as the sovereign authority, which is described in Section 61 of the included Constitution as holding all executive power, the Commonwealth is defined in such a way that sovereign authority cannot pass to the people of Australia in any manner consistent with the document which remains current British domestic law.
7. However at the Imperial War Conference of 1917 the Imperial Government and the assembled representatives of the Dominions of Canada, Australia, South Africa, New Zealand and Newfoundland decided that the constitutional arrangements of the British Empire would have to be altered on the basis of full national equality for the five principal Dominions. (Resolution IX of the Conference)
8. At the Paris Peace Conference of 1919 the Dominions, including Australia, were accorded full national recognition and on presentation of full powers documents in the "Head of State" form became signatories to the Treaty of Peace signed at Versailles on 28<sup>th</sup>. June, 1919

9. Recognised by the other powers present as a legitimate sovereign nation Australia was granted a C class mandate over former German territories in the Pacific Ocean adjacent to Australia.
10. Acting within the new nation status now recognised by the other participant nations Australia then signed further Peace Treaties with the former belligerents, Hungary, Austria, Bulgaria, and Poland.
11. In its new national capacity Australia became one of the founding members of the International Labour organisation.
12. Upon the commencement of the operations of the League of Nations on 10<sup>th</sup>. January 1920 Australia became a member of the Assembly of the League, took part in its deliberations and voted upon issues, at times taking the opposite side from its former colonial power.
13. At the Imperial Conference of 1921 the Prime Minister of the United Kingdom, Mr. Lloyd George, opened the conference with a speech in which he specifically drew attention to the new status of the dominions as having equal national status with the United Kingdom. The Imperial Conference then formally sealed this decision. These events were formally reported to the Australian Parliament on 30<sup>th</sup>. September 1921 (see attachment from the official record.)
14. Thus the United Kingdom in document and deed officially relinquished sovereign authority in and over Australia.
15. The then Prime Minister of Australia, Mr. William Morris Hughes, reported the events of the Paris Peace conference to the Parliament of the Commonwealth on 10<sup>th</sup>. September 1919 (see attachment from the official record) and following protracted debate both Houses of the Commonwealth Parliament unanimously ratified the Treaty of Peace on the 19<sup>th</sup>. September and 1<sup>st</sup> October 1919 respectively thereby accepting the new nation status for Australia.
16. In December 1921 the Prime Minister Mr. Hughes introduced a bill into the Commonwealth Parliament to commence the rearrangement of the constitutional basis as required under Resolution IX of the Imperial War Conference 1917. However political pressure from British commercial interests on members of Parliament saw the unanimous vote of 1919 disappear and the bill was withdrawn due to lack of support. As a result the required constitutional alterations to recognise Australia's change of status have never been carried out.
17. Further all the Courts of the Commonwealth have refused to recognise the historical events of 1917, 1919 and 1921 and maintain the fiction that Australia "gradually became independent somewhere between World War One and World War Two." By this fiction the courts and judges are able to avoid the necessary break in legal continuity arising from the change in

sovereignty and have continued to enforce colonial laws at all levels and have resisted all attempts to have them fully consider the historical facts.

18. Further the courts of Australia effectively operate as courts administering United Kingdom law although current domestic law of the United Kingdom requires that such courts can only operate within sovereign territory of the United Kingdom and can only be presided over by persons qualified under current United Kingdom law. The persons presiding over such courts in Australia are not qualified under United Kingdom law.
19. The law schools of the various Australian universities do not teach or even reveal the above facts to their students. All Australian lawyers are taught to look to the United Kingdom for their authority as well as common law and certain statute law.
20. They are aided and abetted in this by the chief legal officers of the Commonwealth and the States who also refuse to recognise the aforesaid facts and knowingly disseminate false information to the public and the courts. As a result the people of Australia are denied redress of their complaints under properly constituted courts of law as prescribed in international law.
21. Although the record of the parliament includes its acceptance of the historical changes, in practise the executive government co-operates with the courts to conceal the facts and their import from all Australian citizens.
22. In 1931 the Imperial Parliament passed the Statute of Westminster designed to aid and abet the Government of the Commonwealth of Australia and the governments of other former Dominions in the denial of their peoples sovereignty and to ensure the continued imposition of United Kingdom domestic law upon the peoples of the former Dominions. Although required by Article XVIII of the Covenant of the League of Nations to register this international arrangement with the secretariat of the League this was not done, thereby showing that the United Kingdom in practise continued to treat Australia and the other former Dominions as de facto colonies in contravention of international law.
23. Under the Act of Settlement of 1701, being an Act of the English Parliament adopted into United Kingdom law by the Act of Union of 1706, the sovereign of England and thus of the United Kingdom is required to obey this law in order to hold the throne. Because of the operation of this law the current Sovereign of the United Kingdom remains a British subject and subject to the authority of the United Kingdom Parliament. Any Royal Assent to bills passed by the Parliament of the Commonwealth of Australia is thus de facto the assent of the sovereign authority of the Imperial Parliament of the United Kingdom and unlawful in international law unless the Commonwealth remains a colony.
24. If Australia remains a self-governing colony of the United Kingdom the exclusion of Australian citizens and products from the benefits of the Treaty or

Rome and subsequent pan European agreements and treaties entered into by the United Kingdom is unlawful.

25. By these means the Australian people are denied their sovereign rights, their freedoms, the capacity to conduct their own lawful affairs, are differentially taxed in such a manner to place a burden upon ordinary citizens whilst special laws allow major foreign companies, including those of the former colonial power, to operate with minimal taxation. The taxation applied to the ordinary citizens operates under arbitrary rules and with draconian powers which breach both the Universal Declaration of Human Rights and the 1966 Convention on Civil and Political Rights by frequently arbitrarily seizing their property and depriving some citizens of their right to subsistence conferred under Article 1.2 of the Convention.
26. In 1945, when presenting its credentials for the San Francisco Conference which established the United Nations the Commonwealth Government deliberately falsely informed the Conference that the Constitution was Australian law under which the Government was established and under which the Full Powers documents were issued, whereas the Constitution remains current domestic legislation of the United Kingdom Parliament.

In the alternative, if the acceptance of the sovereign nation of Australia as a member state of the United Nations was valid, then the continued application of United Kingdom colonial law within Australia is a breach of Sections 4 and 6 of the Charter as well as various Resolutions of the General Assembly of the United Nations. The so-called Australia Acts 1986 of the Commonwealth and the United Kingdom parliaments are in fact international treaties or arrangements and are required to be registered in accordance with Sections 102 and 103 of the said Charter but have not been so registered.

27. The sovereign authority of the Australian people remains unchallenged, but it is clear that the Government in all its aspects, judicial, executive and parliamentary remains a de facto colonial government of the United Kingdom and as such possesses no sovereign or legal authority in and over the independent nation of Australia.
28. Various Australian citizens have attempted to seek judicial review of the situation but have been denied by the Supreme Courts of the states and the High Court of Australia ( see attached judgements).
29. Redress has been sought within the High Court, being the official highest court in the nation but this has been denied by both the justices and officials of the courts. Having thus exhausted all domestic remedies we therefore seek to place the matters before this Honourable Court as a Court of last resort.
30. Mindful of the question of *locus standii*, but in full belief that the Sovereign People of Australia have a right to be heard, we have therefore sought assistance from several governments of nation signatories to the aforementioned treaties, to bring these issues under the treaties before the Court if standing is denied to the People of Australia.

## ORDERS SOUGHT

We, the people of Australia, therefore seek the following orders from this Honourable Court.


- A. That the Government and Parliament of the United Kingdom be ordered to cease all acts and destroy all documents and authorities which purport in any way to exercise sovereign authority over Australia.
  - B. That the Parliament of the United Kingdom be required to repeal forthwith all laws supporting or succouring or seeking to be used by colonial governments in Australia.
  - C. That the Government of the United Kingdom be ordered to withdraw and destroy all Letters Patent issued by the Queen of the United Kingdom, either by and with the assistance of the Government or without such assistance, and to advise all parties in Australia publicly that any subsidiary Letters Patent or Commissions appointing judges or other public officials possess no legal authority and status
  - D. That Australia's seat at the United Nations be declared vacant and that the government of the Commonwealth be declared to have no legal standing.
  - E. That until a plebiscite is conducted of the Australian people to establish a new legal government that the only law in effect in Australia is international law until the people of Australia specifically allow parts of the law in prior usage to continue for a limited time in the interests of peace and good order.
  - F. To declare that the Queen of the United Kingdom, under the terms of the Act of Settlement of 1701 being a British subject and thereby subject to the sovereign authority of the British people as expressed through their Parliament has no continuing authority in and over Australia unless and until the Australian people exercising their free informed choice determine otherwise.
  - G. That at its discretion this Honourable Court place for investigation before the International War Crimes Commission, or when its Statute may be approved before the International Criminal Court, the names and activities of any person who is held to be with full knowledge of the legal circumstances seen to be continuing to act contrary to international law and binding Conventions.
  - H. Any such other order as the Honourable Court may determine.
-

6. That although the events of 1919 to 1921 are publicly acknowledged history in the rest of the world the facts are omitted from every major history textbook published in Australia, they are not taught in history courses in Australian schools or universities.
7. That the date of Australia's independence has been knowingly concealed by the Executive Governments of the Commonwealth and the States and by the United Kingdom Government during recent times as shown by the attached letters.
8. That the legal profession in Australia have willingly and knowingly acted to prevent the Australian people from attaining and exercising their civil and political rights as acknowledged under instruments of international law.
9. That if this application and petition are not heard before this Honourable Court then, because some 2 million Australians are now aware of the facts and have expressed great anger at public meetings, the strong likelihood exists that armed conflict will break out in Australia between the current illegal regime and the people of Australia. Further that such a conflict could have major international repercussions given that the same historical facts and situations apply to the people of Canada, and the people of New Zealand.

Sworn at Melbourne  
By the said Ian Sidney  
Henke

)  
)  
) 

This 9<sup>th</sup> day of June 1999

  
.....  
Witness.

**IN THE INTERNATIONAL COURT OF JUSTICE  
AT THE HAGUE**

**No. of 1999**

In the matter of an Application under Article 36 of the Statute

Between

**THE SOVEREIGN PEOPLE OF AUSTRALIA**

Applicant

And

**THE PARLIAMENT AND GOVERNMENT OF THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Respondent

**AFFIDAVIT**

I, Ian Sidney Henke, of 7 Apsley Place Seaford in the State of Victoria make oath and say as follows:

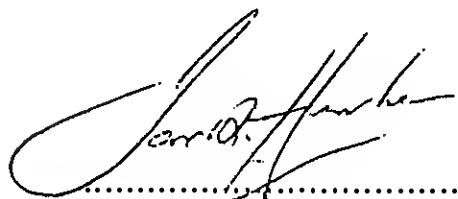
1. That I have supervised the preparation of the Application and Petition to the International Court of Justice in the above matter.
2. That the Application is made on behalf of numerous Australian citizens, who having vainly sought redress and justice from the Australian courts now seek redress before this Honourable Court.
3. That in the attempt to have the issues brought before the High Court of Australia Justice Hayne elected to convert five individual cases into a class action the only common class being that all five Applicants were citizens of Australia and that Hayne J. did dispose of their Applications in a common, class, judgement as attached..
4. That to the best of my knowledge and belief the documents attached hereto are true and correct copies of the official records, publications and court transcripts obtained by us during the preparation of this petition and application.
5. That a deliberate program of misinformation is being conducted by the Government of the Commonwealth of Australia and its agencies, in evidence of which we include public statements by the Commissioner of Taxation and the Assistant Commissioner of Taxation, newspaper articles, and an internal instruction to lower ranked staff.

Prepared by: The Institute of Taxation Research  
Of: 7 Apsley Place  
Seaford, Victoria  
Phone 64.3.8796 3311  
Fax: 64.3.8796 3322

On behalf of: The Sovereign People of Australia.

Signed by on Behalf of the Sovereign People of Australia

This 9<sup>th</sup> day of June 1999

  
.....

  
.....





Foreign &  
Commonwealth  
Office

North East Asia and Pacific Department  
London SW1A 2AP

Telephone: 0171-270

22 July 1999

I Henke  
Institute of Taxation Research  
Unit 117  
MacTaggart's Place  
53 Vernon Terrace  
Teneriffe Wharves  
Brisbane  
Queensland 4005  
AUSTRALIA

*Dear I Henke,*

APPLICATION TO THE INTERNATIONAL COURT OF JUSTICE

Please refer to your letter to the Prime Minister dated 14 June with which you enclosed copies of the above application and petition in two volumes. I have been asked to acknowledge receipt.

Since under Article 34(1) of the Statute of the International Court of Justice "only states may be parties in cases before the Court", and the Institute of Taxation Research is clearly not a state, the British Government does not intend to respond to this application.

*Yours sincerely,*  
*Jonathan Drew*

Jonathan Drew  
North East Asia and Pacific Department

# ANNEXURE 6

1. Letter from United Nations re Australia's status as a sovereign State.

UNITED NATIONS



NATIONS UNIES

POSTAL ADDRESS—ADRESSE POSTALE UNITED NATIONS, N.Y. 10017  
CABLE ADDRESS—ADRESSE TELEGRAPHIQUE UNATIONS NEWYORK

REFERENCE

19 December 1997

Dear Mr. Joosse,

This is in response to your memorandum of 5 December 1997 which asks us the date that the United Nations recognizes as "the legal date on which Australia ceased to be a colony of the United Kingdom and assumed sovereign nation status." You also allude to recent enquiries conducted by the Secretary-General and my office on this issue.

We are unaware of any enquiries being made on this issue in this Office.

In relation to your question we note that the Charter of the United Nations entered into force on 24 October 1945 and that Australia was an original Member of the United Nations, having signed the Charter on 26 June 1945. Australia's status as of that date was obviously that of a sovereign State. The exact date that it assumed such status is not a matter on which this Office can pronounce.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Paul C. Szasz".

Paul C. Szasz  
Acting Director and Deputy to the  
Under-Secretary-General  
Office of the Legal Counsel

Mr. W. Joosse  
Managing Director  
David Keys Australia PTY.LTD.  
6 Apsley Place  
Seaford Victoria 3198  
Australia

# **ANNEXURE 7**

1. Extract from the Charter of the United Nations
2. Copy of UN Resolution 2131 of 1965
3. Copy of UN Resolution 2625 of 1970



I, BRIAN ALEXANDER SLEE, Executive Officer, Department of Foreign Affairs and Trade, Canberra, hereby certify that the attached text is a true copy of the Charter of the United Nations, with the Statute of the International Court of Justice annexed thereto, done at San Francisco on the twenty-sixth day of June, one thousand nine hundred and forty-five, the original of which is deposited in the archives of the Government of the United States of America.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of the Department of Foreign Affairs and Trade of Australia.

SIGNED at Canberra on this sixteenth day of October, one thousand nine hundred and ninety-seven.

*Brian Slee*

Executive Officer  
Treaties Secretariat

# CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS  
DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS  
TO ACCOMPLISH THESE AIMS.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

## CHAPTER I

### PURPOSES AND PRINCIPLES

#### *Article 1*

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

#### *Article 2*

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international

disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize 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; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

## CHAPTER II

### MEMBERSHIP

#### *Article 3*

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

#### Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- a. the interpretation of a treaty;
- b. any question of international law;
- c. the existence of any fact which, if established, would constitute a breach of an international obligation;
- d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the

International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

#### Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

#### Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

### CHAPTER III

#### PROCEDURE

#### Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the



*Article 96*

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

## CHAPTER XV THE SECRETARIAT

*Article 97*

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

*Article 98*

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

*Article 99*

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

*Article 100*

1. In the performance of their duties the Secre-

tary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

*Article 101*

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.


3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

## CHAPTER XVI MISCELLANEOUS PROVISIONS

*Article 102*

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of



this Article may invoke that treaty or agreement before any organ of the United Nations.

#### *Article 103*

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

#### *Article 104*

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

#### *Article 105*

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

## CHAPTER XVII

### TRANSITIONAL SECURITY ARRANGEMENTS

#### *Article 106*

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin

the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

#### *Article 107*

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

## CHAPTER XVIII

### AMENDMENTS

#### *Article 108*

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

#### *Article 109*

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

YEARBOOK  
OF THE  
UNITED  
NATIONS



1965

*OFFICE OF PUBLIC INFORMATION  
UNITED NATIONS, NEW YORK*

~~A/C.1/L.352. Pakistan: amendments to USSR draft declaration, A/C.1/L.343/Rev.1.~~

~~A/C.1/L.353 and Add.1. United Arab Republic and United Republic of Tanzania: draft declaration.~~

~~A/C.1/L.353/Rev.1. Iraq, United Arab Republic and United Republic of Tanzania: revised draft declaration.~~

~~A/C.1/L.353/Rev.2. Algeria, Burma, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libya, Mauritania, Nigeria, Syria, United Arab Republic, United Republic of Tanzania, Yugoslavia: revised draft declaration.~~

~~A/C.1/L.353/Rev.3 and Add.1. Algeria, Burma, Burundi, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Mali, Mauritania, Nigeria, Rwanda, Syria, Togo, Uganda, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia: revised draft declaration.~~

~~A/C.1/L.353/Rev.4 and Add.1. Algeria, Burma, Burundi, Cameroon, Ceylon, India, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Mauritania, Nigeria, Rwanda, Saudi Arabia, Sudan, Syria, Togo, Uganda, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia: revised draft declaration.~~

~~A/C.1/L.354. India: amendments to 18-December draft resolution, A/C.1/L.349/Rev.1.~~

~~A/C.1/L.364 and Add.1. Afghanistan, Algeria, Argentina, Bolivia, Brazil, Burma, Burundi, Cameroon, Chile, Colombia, Congo, Costa Rica, Democratic Republic of Congo, Cuba, Cyprus, Dahomey, Ecuador, El Salvador, Ethiopia, Gabon, Guinea, Guatemala, Haiti, Honduras, India, Iran, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Mali, Mauritania, Mexico, Nicaragua, Niger, Nigeria, Panama, Paraguay, Peru, Rwanda, Saudi Arabia, Sierra Leone, Somalia, Syria, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia: draft declaration, approved by First Committee on 20 December 1965, meeting 422, by roll-call vote of 100 to 0, with 5 abstentions, as follows:~~

~~*In favour:* Afghanistan, Algeria, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian SSR, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Democratic Republic of Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kuwait, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR,~~

~~USSR, United Arab Republic, United Republic of Tanzania, United States, Upper Volta, Venezuela, Yugoslavia, Zambia.~~

~~*Against:* None.~~

~~*Abstaining:* Australia, Belgium, Netherlands, New Zealand, United Kingdom.~~

~~A/6220. Report of First Committee.~~

~~RESOLUTION 2131(XX), as proposed by First Committee, A/6220, adopted by Assembly on 21 December 1965, meeting 1408, by roll-call vote of 109 to 0, with 1 abstention, as follows:~~

~~*In favour:* Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian SSR, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Democratic Republic of the Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Maldive Islands, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR, USSR, United Arab Republic, United Republic of Tanzania, United States, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.~~

~~*Against:* None.~~

~~*Abstaining:* United Kingdom.~~

~~*"The General Assembly,*~~

~~*"Deeply concerned at the gravity of the international situation and the increasing threat to universal peace due to armed intervention and other direct or indirect forms of interference threatening the sovereign personality and the political independence of States,*~~

~~*"Considering that the United Nations, in accordance with their aim to eliminate war, threats to the peace and acts of aggression, created an Organization, based on the sovereign equality of States, whose friendly relations would be based on respect for the principle of equal rights and self-determination of peoples and on the obligation of its Members to refrain from the threat or use of force against the territorial integrity or political independence of any State.*~~

~~*"Recognizing that, in fulfilment of the principle of self-determination, the General Assembly, in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in resolution 1514 (XV) of 14 December 1960, stated its conviction that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory, and that, by virtue of that right, they freely determine their political*~~

status and freely pursue their economic, social and cultural development,

"*Recalling* that in the Universal Declaration of Human Rights the General Assembly proclaimed that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, without distinction of any kind,

"*Reaffirming* the principle of non-intervention, proclaimed in the charters of the Organization of American States, the League of Arab States and the Organization of African Unity and affirmed at the conferences held at Montevideo, Buenos Aires, Chapultepec and Bogotá, as well as in the decisions of the Asian-African Conference at Bandung, the First Conference of Heads of State or Government of Non-Aligned Countries at Belgrade, in the Programme for Peace and International Co-operation adopted at the end of the Second Conference of Heads of State or Government of Non-Aligned Countries at Cairo, and in the declaration on subversion adopted at Accra by the Heads of State and Government of the African States,

"*Recognizing* that full observance of the principle of the non-intervention of States in the internal and external affairs of other States is essential to the fulfilment of the purposes and principles of the United Nations,

"*Considering* that armed intervention is synonymous with aggression and, as such, is contrary to the basic principles on which peaceful international co-operation between States should be based,

"*Considering further* that direct intervention, subversion and all forms of indirect intervention are contrary to these principles and, consequently, constitute a violation of the Charter of the United Nations,

"*Mindful* that violation of the principle of non-intervention poses a threat to the independence, freedom and normal political, economic, social and cultural development of countries, particularly those which have freed themselves from colonialism, and can pose a serious threat to the maintenance of peace,

"*Fully aware* of the imperative need to create appropriate conditions which would enable all States, and in particular the developing countries, to choose without duress or coercion their own political, economic and social institutions,

"*In the light of the foregoing considerations,*

*solemnly declares:*

"1. No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned.

"2. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

"3. The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

"4. The strict observance of these obligations is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter of the United Nations but also leads to the creation of situations which threaten international peace and security.

"5. Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

"6. All States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure, and with absolute respect for human rights and fundamental freedoms. Consequently, all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations.

"7. For the purpose of the present Declaration, the term 'State' covers both individual States and groups of States.

"8. Nothing in this Declaration shall be construed as affecting in any manner the relevant provisions of the Charter of the United Nations relating to the maintenance of international peace and security, in particular those contained in Chapters VI, VII and VIII."

## CHAPTER VII

### REGIONAL ACTION TO IMPROVE RELATIONS BETWEEN EUROPEAN STATES WITH DIFFERENT SOCIAL AND POLITICAL SYSTEMS

The question of "Actions on the regional level with a view to improving good neighbourly relations among European States having different social and political systems" was first

placed on the agenda of the General Assembly in 1963 at its eighteenth session. This was done at the request of Romania.

On that occasion, the Assembly decided, in

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## ANNEX

DECLARATION ON PRINCIPLES OF INTERNATIONAL  
LAW CONCERNING FRIENDLY RELATIONS AND  
CO-OPERATION AMONG STATES IN ACCORDANCE  
WITH THE CHARTER OF THE UNITED NATIONS

## PREAMBLE

*The General Assembly,*

*Reaffirming* in the terms of the Charter of the United Nations that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

*Recalling* that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

*Bearing in mind* the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development.

*Bearing in mind also* the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

*Considering* that the faithful observance of the principles of international law concerning friendly relations and co-operation among States and the fulfilment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

*Noting* that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

*Recalling* the established principle that outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

*Convinced* that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

*Recalling* the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

*Considering* it essential that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

*Considering* it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

*Reaffirming*, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

*Convinced* that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

*Convinced* that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

*Convinced* in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

*Considering* the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

*Considering* that the progressive development and codification of the following principles:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered,

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter,

(d) The duty of States to co-operate with one another in accordance with the Charter,

(e) The principle of equal rights and self-determination of peoples,

(f) The principle of sovereign equality of States,

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter,

so as to secure their more effective application within the international community, would promote the realization of the purposes of the United Nations,

*Having considered* the principles of international law relating to friendly relations and co-operation among States,

1. *Solemnly proclaims* the following principles:

*The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations*

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special régime or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal.

Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

*The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered*

Every State shall settle its international disputes with other States by peaceful means in such a manner that international peace and security and justice are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality.

Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in particular those relating to the pacific settlement of international disputes.



*The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter*

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

\* No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

*The duty of States to co-operate with one another in accordance with the Charter*

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of peoples and international co-operation free from discrimination based on such differences.

To this end:

1) States shall co-operate with other States in the maintenance of international peace and security;

2) States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

3) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;

4) States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the promotion of economic growth throughout

the world, especially that of the developing countries.

*The principle of equal rights and self-determination of peoples*

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

(a) To promote friendly relations and co-operation among States; and

(b) To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned;

and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

The territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compli-

ance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

*The principle of sovereign equality of States*

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

- (a) States are juridically equal;
- (b) Each State enjoys the rights inherent in full sovereignty;
- (c) Each State has the duty to respect the personality of other States;
- (d) The territorial integrity and political independence of the State are inviolable;
- (e) Each State has the right freely to choose and develop its political, social, economic and cultural systems;
- (f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

*The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter*

Every State has the duty to fulfil in good faith the

obligations assumed by it in accordance with the Charter of the United Nations.

Every State has the duty to fulfil in good faith its obligations under the generally recognized principles and rules of international law.

Every State has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognized principles and rules of international law.

Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail.

GENERAL PART

2. *Declares that:*

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.

Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of Member States under the Charter or the rights of peoples under the Charter, taking into account the elaboration of these rights in this Declaration.

3. *Declares further that:*

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

CHAPTER III

THE QUESTION OF DEFINING AGGRESSION

CONSIDERATION BY  
SPECIAL COMMITTEE

In accordance with a General Assembly decision of 12 December 1969,<sup>1</sup> the Special Committee on the Question of Defining Aggression continued its work in 1970.

Meeting at Geneva, Switzerland, from 13 July to 14 August 1970, the Special Committee discussed the three draft proposals which had been submitted to it at its 1969 session, namely:

- (1) a USSR proposal; (2) a 13-power proposal (Colombia, Cyprus, Ecuador, Ghana, Guyana, Haiti, Iran, Madagascar, Mexico, Spain, Uganda, Uruguay and Yugoslavia); and (3) a six-power proposal (Australia, Canada, Italy, Japan, the United Kingdom and the United States).<sup>2</sup>

After a general discussion of the three proposals, the Special Committee decided to consider them paragraph by paragraph according to the concepts on which they were based.

The main points considered by the Special Committee were the following:

- (1) Application of the definition of aggression: (a) the definition and the power of the Security Council; (b) political entities to which the definition should apply.

- (2) Acts proposed for inclusion in the definition: (a) the question of "direct or indirect" aggression;

<sup>1</sup> See Y.U.N., 1969, p. 774, text of resolution 2549(XXIV).

<sup>2</sup> *Ibid.*, pp. 768-71, for information on the draft proposals.

# **ANNEXURE 8**

1. Extract Australian Parliamentary debates, House of Representatives  
30th September 1921 - pp 11630, 11631.

lodge an appeal against his assessment, and all appeals are most carefully and exhaustively investigated. If then dissatisfied with the decision given, he can further appeal. The medical examinations are made by the departmental medical officers, and the staffs of assistant departmental medical officers, and wherever the Commission considers the circumstances warrant it the case is referred to a specialist for advice.

### PAPERS.

The following papers were presented:—

Norfolk Island—Report for the year ended 30th June, 1921.

Papua—Oilfields in—Reports on operations of the Anglo-Persian Oil Company during March to July, 1921.

Ordered to be printed.

### IMPERIAL CONFERENCE.

STATUS OF DOMINIONS — EMPIRE'S FOREIGN POLICY — ANGLO-JAPANESE TREATY—THE PACIFIC PROBLEM—DISARMAMENT CONFERENCE — CONSTITUTIONAL CONFERENCE.

Mr. HUGHES (Bendigo—Prime Minister and Attorney-General) [11.30].—(*By leave.*)—On the 7th April, 1921, I made a statement to this House setting out the principal questions to be considered at the Conference, and giving reasons why Australia should be represented. Let me remind you of what I then said—

The Conference has been summoned to deal with questions of foreign policy, naval defence, and the renewal of the Anglo-Japanese Treaty. Certain other subsidiary matters are also set out on the agenda-paper. One relates to communications (including wireless) between various parts of the Empire; but I shall direct my remarks mainly to those matters which are of fundamental importance.

I emphasized the importance of foreign policy to Australia in general and the Anglo-Japanese Treaty in particular, the dependence of the Empire on sea power, and expressed my opinion that the Treaty ought to be renewed, and in such form, if that should prove by any means possible, as would be satisfactory to America. I concluded by saying—

If I am asked if the Commonwealth is to be committed to anything done at the Conference, I say, quite frankly, that this Parliament will have the amplest opportunity of expressing its opinion on any scheme of naval defence that is decided upon before the scheme is ratified.

As to the renewal of the Treaty with Japan, this is my attitude, and I submit it to the consideration of honorable members: I am in favour of renewing the Treaty in any form that is satisfactory to Britain, America, and ourselves. I am prepared to renew it in these

circumstances. If it is suggested that the renewal should take the form which would involve the sacrifice of those principles which we ourselves regard as sacred, I am not prepared to accept it. In such circumstances, I shall bring back the Treaty to this Parliament. I think I have put the situation clearly; and since these matters have sometimes to be settled quickly, I want honorable members to say whether they will give me the authority I ask for.

With regard to the expenditure involved in any naval scheme, the House will not be committed to the extent of one penny. The scheme will be brought before Parliament, and honorable members will be able to discuss, and accept or reject it.

Honorable members, therefore, were fully aware of the main objects of my mission and of my attitude towards them. I undertook not to commit Australia to any expenditure unless approved by Parliament. The Parliament gave me the authority I asked for, and on the 28th April I left for London. I have been absent just five months, and now, at the earliest possible moment after my return, I propose to inform the Parliament and the country of what the Conference did.

I need hardly say that the pledges given by me have been carried out, not only to the letter, but in the spirit. The Commonwealth is not committed to any expenditure. Everything done is subject to parliamentary approval, and Parliament will have the fullest opportunity of expressing its opinions.

Before plunging into the details of the subjects dealt with in London, a few prefatory words about the Conference itself seem called for.

The recent meeting of the Prime Ministers of Great Britain and the overseas Dominions differed in many respects from those which preceded it. Prior to the war, Imperial Conferences were ceremonious and social functions rather than serious attempts to co-ordinate the activities of a far-flung Empire. The experiences of war showed clearly that as the safety of every part of the Empire depended upon united action, means for insuring to each member an effective share in guiding its course must be devised. Matters over which we had no control, in shaping which we had no voice, about which we were indeed quite ignorant, had led to a declaration of war by Great Britain in 1914. A bolt had fallen from the blue; Britain was at war; as part of the Empire we were involved. Britain had done much for us, under her sheltering wing we had rested for over a century

in perfect peace and security. Our hour of great trial had come; we had to prove ourselves worthy of the traditions of our race and our liberties, or perish.

The war has changed many things. It has destroyed dynasties, uprooted ancient institutions, readjusted the boundaries of the nations, and created many difficult problems; but it has also given us a wider and more splendid concept of Empire. We have realized that the British Empire is a partnership of free nations, every one being free to act as it pleases, yet all united in council and in action. Our isolation did not insure our safety. Before the war, we had stood aloof from world politics, yet the maelstrom of war engulfed us, and this young Democracy has proved itself worthy of its breeding and of its liberties. The legions of Australia fought alongside those of Britain and the other Dominions. Our ships were on every sea; our armies in the forefront of the far-flung battle line in Europe and \* Asia. We had been a Dominion; the war made us a nation within the Commonwealth of Nations. The admission of the representatives of the Dominions into the Imperial War Cabinet marked the first great step in the new era. Then came the Peace Conference on which the Dominions were granted separate representation, and sat on a footing of equality with the great nations of the earth. But not only was our status as nations thus conceded, but by virtue of our membership of the British Empire we exercised an influence and wielded an authority far greater than that of the majority of the nations gathered round the Peace Table, for as members of the British Empire Delegation—the name by which the Imperial Cabinet was known during the Peace Conference—we enjoyed privileges denied to all save the great Powers; we were consulted on the vital matters which came before the Council of the Four, and our voices and votes shaped the policy which the British representatives urged in that Council. We affixed our signatures to the Versailles Treaty.

The status granted in War has been confirmed in times of Peace. Mr. Lloyd George in his opening Speech to the Conference said:—

In recognition of their services and achievements in the war the British Dominions have now been accepted fully into the comity of

the nations of the whole world. They are signatories to the Treaty of Versailles and of all other Treaties of Peace; they are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League; in other words, they have achieved full national status, and they now stand beside the United Kingdom as equal partners in the dignities and responsibilities of the British Commonwealth. If there are any means by which that status can be rendered even more clear to their own communities and to the world at large, we shall be glad to have them put forward at this Conference.

In these words, the Prime Minister of Britain, the President of the Conference, set out in clear unambiguous language the concept of a partnership of free nations, all equal in dignity and responsibility, to which the Conference subsequently formally and officially set its seal.

I ask this House and this country to note all that is involved in these words of the Prime Minister of Britain, accepted by his colleagues and indorsed by the Conference, I ask them to contrast this concept of a British Commonwealth comprised of free nations, each enjoying the status of nationhood, each claiming and being accorded an equal voice in shaping Empire policy, with that other concept, which, not many years ago, stood unchallenged—of Britain supreme in power and authority, deciding without question the destiny of all. In those days when one spoke of Empire the British communities oversea seemed only the appanages of Britain's glory; Britain loomed so large as to dwarf all others. In the minds of men Britain was the Empire.

But the years have passed; much water has run under the bridges, much blood has been shed; the Dominions have established their right to be treated as equals, and Britain, not waiting for formal demand, has been the first to acclaim and gladly welcome us as her equal, and bid us sit with her at the Council table of Empire.

The Imperial Conference of 1921 was one in which all members met as equals to discuss not the prosecution of a war, on which common agreement was easily attainable, but the intricacies of foreign policy in many countries and the measures necessary for the safety and prosperity of the whole Empire.

For the first time, then, in the history of this great Empire the representatives

# **ANNEXURE 9**

1. Letter to Lord Chancellor.
2. Reply on behalf of Lord Chancellor.

The Office of the Lord Chancellor  
Houses of Parliament  
Westminster Palace  
LONDON  
UNITED KINGDOM

July 13 1997  
(actually 23 July)

Dear Sir,

Copy  
Doc 34  
Floppy

My continuing research into the relationship between the United Kingdom and Australia has turned up a document which contains the following statement:-

“ The chief law officer of the United Kingdom, the Lord Chancellor, states:

“ The Commonwealth of Australia Constitution Act (UK) 1900 is an Act of the United Kingdom Parliament. The right to repeal this act remains the sole prerogative of the Parliament of the United Kingdom . There is no means by which under United Kingdom or international law this power can be transferred to a foreign country or Member State of the United Nations. Indeed, the United Nations Charter itself precludes any such action. The government of the United Kingdom presented the original document of the Commonwealth of Australia Constitution Act (UK) 1900 to Australia in 1988 as a gesture of goodwill on its 200th anniversary.”

Since this statement is not accompanied by a reference will you please verify its accuracy and, if it is found so, if it can actually be attributed to the Lord Chancellor?

Since it seems clear that the two countries are now quite independent, has the government of the United Kingdom given consideration to the repealing of the Commonwealth of Australia Constitution Act (UK) 1900?

It would be appreciated if you would give a priority to this communication that will result in an undelayed response.

Yours sincerely,

Peter Batten  
P.O. Box 1333  
RENMARK  
South Australia  
AUSTRALIA 5341



Foreign &  
Commonwealth  
Office

Far Eastern and Pacific Department  
London SW1A 2AP

Telephone: 0171-270 3266

11 December 1997

P Batten Esq  
P.O. Box 1333  
RENMARK  
S.A. 5341  
Australia

*Dear Mr Batten*

**AUSTRALIAN CONSTITUTION**

Thank you for your letter to the Lord Chancellor of 13 July. I have been asked to reply. I apologise for the delay in replying.

We have been unable to locate the source of the quotation in your letter attributed to the Lord Chancellor. However, on a point of detail, the British gift of one of the original copies of the 1900 United Kingdom Act to Australia took place by special Act of Parliament in 1990 not in 1988, although the 1900 Act was on loan to Australia at this latter date.

The statement you mention in your letter is an accurate description of the power of the British Parliament in relation to its own legislation. The statement does not, however, address the special status of the Constitution of the Commonwealth of Australia. Nor does it refer to the Australia Acts, which declared that no future Act of the British Parliament would extend to Australia.

The Commonwealth of Australia Constitution Act was enacted in the United Kingdom at a time when Westminster was required to legislate on Australian issues; the measure was based on Australian drafts and was endorsed at the time by a majority of Australians. The continuing role of the Australia Constitution Acts as Australia's fundamental law is, of course, entirely a matter for Australia. There are at present no plans to repeal the Constitution Act.



The Government of the United Kingdom would, however, give consideration to the repeal of the Commonwealth of Australia Constitution Act if a request to that effect were made by the Government of Australia. To date no such request has been made.

I hope this information is of help to you.

Yours sincerely

Mark Armstrong

Mark Armstrong  
Far Eastern and Pacific Department

# **ANNEXURE 10**

1. Letter from Office of Australian Attorney-General.



Office of  
Attorney-General

21 OCT 1997

20/97071622

Mr Peter Batten  
PO Box 1333  
Renmark  
South Australia 5341

Dear Mr Batten

I refer to your letter dated 17 July 1997 to Sir Robert Fellowes and to your letter to the British High Commission in which you requested information about the status of certain constitutional instruments and the Queen's role as Queen of Australia. Your letter have been forwarded to the office of the Attorney-General. I have been asked to reply on behalf of the Attorney-General.

*The status of the Commonwealth Constitution*

You would be aware that the Commonwealth Constitution was passed as part of a British Act of Parliament in 1900. A British Act was necessary because before 1900 Australia was merely a collection of self-governing British colonies and ultimate power over those colonies rested with the British Parliament.

However, during the course of this century Australia has become an independent nation and the character of the Constitution as the fundamental law of Australia is now seen as deriving not from its status as an Act of British Parliament, which no longer has any power over Australia, but from its acceptance by the Australia People.

Nevertheless, the Constitution remains part of an Act of the British Parliament. That Act has not been repealed.

*Letters Patent*

I am advised that Letters Patent constituting the office of Governor General of Australia were issued on 29 October 1900 under the Great Seal of the United Kingdom by Queen Victoria as Queen of the United Kingdom. Amendments to the Letters Patent issued in 1900, made on 4 December 1958, were approved by Queen Elizabeth II on the advice of the Australian Government. On 24 August 1984 the Letters Patent issued in 1900 were revoked and new Letters Patent were issued by Queen Elizabeth II as Queen of Australia under the Great Seal of Australia. The Letters Patent issued in 1984 have not been superseded.

*The Queen's Role*

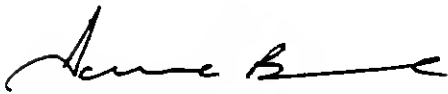
The Queen's role as Queen of Australia is, in legal terms, distinct from her role as Queen of the United Kingdom (as it is distinct from her role as Queen of Canada or of

New Zealand). The Queen of Australia, when acting in relation to Australia, acts on the advice of the Australian Government. I have not seen and therefore cannot comment on any advice from the 'Keeper of the Royal Seals' to the effect that the Queen of Australia cannot issue Letters Patent in relation to the office of the Governor-General on the advice of the Australian Government.

I am afraid I cannot say whether the Queen, when acting in her capacity as Queen of the United Kingdom under the laws of the United Kingdom, can issue Letters Patent to non-British subjects.

I hope you find these comments helpful.

Yours sincerely



Adele Byrne  
Adviser

# **ANNEXURE 11**

1. Extract from Australian Parliamentary debates. The Senate 1st October 1919

2. Copy of a set of documents relating to Peace Treaties of 1919, as published in Australian Parliamentary Papers 1920 - 1921.

2. No.  
3. The next census will be taken in April, 1921, when the question of representation, as well as redistribution, will need to be considered.

#### WHEAT POOL. 1918-19 CROP.

Senator PRATTEN asked the Minister in charge of the Wheat Pool, *upon notice*—

What is the total number of bushels of wheat represented by the uncashed certificates still remaining in the 1918-19 Wheat Pool?

Senator RUSSELL.—Inquiries are being made, and a reply will be furnished in due course.

#### NAVY MECHANICS.

##### BRITISH EXPERIENCE.

Senator McDOUGALL asked the Minister representing the Minister for the Navy, *upon notice*—

1. How many mechanics were sent to Great Britain at the country's expense to study submarine building and other naval work?
2. Have any of these men been asked for a report on their experiences in Great Britain?
3. If so, has that report been submitted to the Department?
4. Is said report available to senators?
5. How many of these men are still in the employment of the Department?
6. How many have taken positions with other firms?
7. Is it not the policy of the Department to avail itself of the experience gained by these men?

Senator RUSSELL.—The answers are—

1. Ten.
- 2 and 3. They were required to keep notes of their work, and these notes were collected prior to their departure from Great Britain, and sent to the general manager, Cockatoo Island, Sydney.
4. No formal reports have been received.
5. Six.
6. No information is available.
7. The experience gained is being availed of as far as possible, though no submarines are being built in view of existing circumstances.

#### PACIFIC ISLANDS.

Senator FERRICKS asked the Leader of the Government in the Senate, *upon notice*—

Will he lay on the table of the Senate the recommendations of the late General Pethebridge regarding the control and development of the Pacific Islands?

Senator RUSSELL.—No report of the nature indicated can be traced as having

been received by the Minister of Defence although it is understood that the late administrator had in preparation such a report. Further inquiry will, however, be made.

#### \* TREATY OF PEACE \*

Senator MILLEN (New South Wales—Minister for Repatriation) [3.12].—I move—

That this Senate approves of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles, on the 28th June, 1919.

In moving the motion it is not my intention, even if I were competent to do so, to refer to the great and stirring events which led up to the shaping of this agreement, or to those scarcely less dramatic happenings which accompanied the completion of that document. Honorable senators have recently had the opportunity of hearing from the lips of the man most competent to tell the story of that side of this important event. I shall confine myself to dealing with the Treaty—what it is, and what it does—and in doing that I shall endeavour to be as brief as the magnitude of the subject will permit. Yet I feel that it impossible, when we recognise what the presentation of this Treaty, and our acceptance of it, really means to ignore the thoughts and emotions which will spring up in the minds of most of us. For over five years Australia, in conjunction with the allied and associated Powers, was engaged in the most titanic struggle known in the history of the world. During that period the people whose representatives we are were engaged in a tremendous effort, making great sacrifices, faced always with the menace of great danger, and not infrequently confronted or overshadowed by great fears. Now that we are passing from the turmoil of war and are approaching the goal of peace—that goal towards which our eyes have been so steadfastly directed and our hearts have been bent—we should be other than the men we are if we were not conscious of the feelings of profound relief, of devout thankfulness, and of justifiable pride. If we would correctly assess the value of this Treaty to ourselves, let us for a moment consider what the position would have been had the situation been reversed. and, instead of being asked to ratify a treaty imposed on a heaten

some time. There have been one or two side issues introduced, and a little side-stepping. We are taking a practical step in the direction of securing Peace, and I think that we can congratulate ourselves and the whole world on the fact that the terrible holocaust has ceased. Whatever one's views may be, we cannot look back upon the horrible scenes of war without regretting that the world had not reached a more civilized stage. We had hoped that such a war was impossible, but we were apparently labouring under a delusion. I trust that the world after the late great conflict has learned that wars are of no benefit to the common people. I do not wish to deal with the Treaty in detail, because my geographical knowledge of Europe would not enable me to do so, even were I so disposed. The Treaty does not embody all I expected, but I believe that there has been an honest attempt on the part of all nations to abolish war. I am disappointed with the results of the Conference; but in so far as the nations of the world have made a genuine effort to prevent further wars, I believe the foundations have been laid for making the world a better place in which to live.

Speaking of the Labour Conference, and as an Australian who claims to have more interest in Labour than ever before, I believe the Treaty does not hold out much for us when I consider the questions set down for discussion. We have reached the standard laid down in the Treaty, and hope to improve in the future. Industrially, we have been experimenting in many directions, but I do not think we have been altogether successful up to date. Judging by experience, there seems a reasonable hope of solving many of the difficulties with which we are faced to-day. I believe it would be advantageous if we could help by our experience in improving the labour conditions in other countries of the world. By levelling up the conditions in other countries, we would be providing a great national asset for Australia. I sincerely regret that Labour is not to be represented, and I still hope that some arrangement may be made to overcome that difficulty. It was not the desire of the Government to say how many representatives of Labour there should be—that was determined at the Peace Conference. There was no desire on the part of the Government to inter-

ferre with the nominations of the Labour party, and it was in a position to nominate whatever delegate it desired. The date fixed for the Conference was soon after the return of our representatives from the Peace Conference; and that made it rather difficult for a Labour representative to be elected in Australia. However, the Conference will meet from time to time, and Labour organizations will have the opportunity of sending their representatives. I could draw attention to a good deal that has been accomplished by the Treaty. I believe it gives to the world a great hope, and the document proves that all the belligerent nations have come together in a spirit of confidence, in the interests of the general welfare of the people of the world.

\* Question resolved in the affirmative. \*

#### FRANCE: ANGLO-AMERICAN TREATY.

Debate resumed from 17th September (*vide* page 12341), on motion by Senator MILLEN—

That this Senate approves the Treaty made at Versailles on the 28th June, 1919, between His Majesty the King and the President of the French Republic, whereby, in case the stipulations relating to the left bank of the Rhine, contained in the Treaty of Peace with Germany signed at Versailles the 28th day of June, 1919, by the British Empire, the French Republic and the United States of America, among other Powers, may not at first provide adequate security and protection to France, Great Britain agrees to come immediately to her assistance in the event of any unprovoked movement of aggression against her being made by Germany.

Senator GARDINER (New South Wales [8.55].—In speaking to this motion, I hope I will not have to ask the Senate for an extension of time. It appears to me that there is no occasion for such a motion to be submitted to the Commonwealth Parliament. I direct attention to the fact that in the earlier portion of the motion "British Empire" is used; but when it comes to the question of an agreement as to who is to resent interference by Germany, the words "Great Britain" are used. I think that is wise. We are passing a motion that does not hind Australia to interfere in any unprovoked assault made by Germany against France. Any one who is acquainted with the circumstances surrounding the breaking of treaties, or how wars have been caused, can easily

1920-21.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

## PEACE TREATIES.

PAPERS RELATING TO SIGNING AND RATIFICATION  
OF THE PEACE TREATIES—

- (a) MEMORANDUM DATED 12<sup>TH</sup> MARCH, 1919, CIRCULATED BY SIR ROBERT BORDEN, ON BEHALF OF THE DOMINION PRIME MINISTERS.
- (b) RULES OF THE PEACE CONFERENCE CONTAINED IN ANNEX II. TO PROTOCOL I. OF THE CONFERENCE, DEFINING THE POSITION AND REPRESENTATION OF THE SEVERAL POWERS, INCLUDING THE DOMINIONS (DATED 18<sup>TH</sup> JANUARY, 1919).
- (c) CORRESPONDENCE BETWEEN THE COMMONWEALTH GOVERNMENT AND THE SECRETARY OF STATE FOR THE COLONIES CONCERNING THE SIGNING AND RATIFICATION OF THE PEACE TREATIES.
- (d) ORDER IN COUNCIL PASSED IN AUSTRALIA, MOVING HIS MAJESTY THE KING TO ISSUE LETTERS PATENT APPOINTING PLENIPOTENTIARIES IN RESPECT OF THE COMMONWEALTH OF AUSTRALIA.

*Presented by Command ; ordered to be printed, 29th April, 1921.*

[*Cost of Paper* :—Preparation, not given ; 800 copies ; approximate cost of printing and publishing, £12.]

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(a)

MEMORANDUM, DATED 12<sup>TH</sup> MARCH, 1919, CIRCULATED BY SIR ROBERT BORDEN ON BEHALF OF THE DOMINION PRIME MINISTERS.

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BRITISH EMPIRE DELEGATION.

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THE DOMINIONS AS PARTIES AND SIGNATORIES TO THE VARIOUS PEACE TREATIES.

*Memorandum circulated by Sir Robert Borden on behalf of the Dominion Prime Ministers.*

(1) The Dominion Prime Ministers, after careful consideration, have reached the conclusion that all the treaties and conventions resulting from the Peace Conference should be so drafted as to enable the Dominions to become Parties and Signatories thereto. This procedure will give suitable recognition to the part played at the Peace Table by the British Commonwealth as a whole, and will at the same time record the status attained there by the Dominions.

(2) The procedure is in consonance with the principles of constitutional government that obtain throughout the Empire. The Crown is the Supreme Executive in the United Kingdom and in all the Dominions, but it acts on the advice of different Ministries within different constitutional units; and under Resolution IX. of the Imperial War Conference, 1917, the organization of the Empire is to be based upon equality of nationhood.

(3) Having regard to the high objects of the Peace Conference, it is also desirable that the settlements reached should be presented at once to the world in the character of universally accepted agreements, so far as this is consistent with the constitution of each State represented. This object would not be achieved if the practice heretofore followed of merely inserting in the body of the convention an express reservation providing for the adhesion of the Dominions were adopted in these treaties; and the Dominions would not wish to give even the appearance of weakening this character of the peace.

(4) On the constitutional point, it is assumed that each treaty or convention will include clauses providing for ratification similar to those in the Hague Convention of 1907. Such clauses will, under the procedure proposed, have the effect of reserving to the Dominion Governments and Legislatures the same power of review as is provided in the case of other contracting parties.

(5) It is conceived that this proposal can be carried out with but slight alterations of previous treaty forms. Thus:—

(a) The usual recital of Heads of State in the Preamble needs no alteration whatever, since the Dominions are adequately included in the present formal description of the King, namely, "His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India".

(b) The recital in the Preamble of the names of the Plenipotentiaries appointed by the High Contracting Parties for the purpose of concluding the treaty would include the names of the Dominion Plenipotentiaries immediately after the names of the Plenipotentiaries appointed by the United Kingdom. Under the general heading "The British Empire" the sub-headings "The United Kingdom," "The Dominion of Canada," "The Commonwealth of Australia," "The Union of South Africa," &c., would be used as headings to distinguish the various Plenipotentiaries.

(c) It would then follow that the Dominion Plenipotentiaries would sign according to the same scheme.

(6) The Dominion Prime Ministers consider, therefore, that it should be made an instruction to the British member of the drafting Commission of the Peace Conference that all treaties should be drawn according to the above proposal.

(b)

RULES OF THE PEACE CONFERENCE CONTAINED IN ANNEX II. TO  
 PROTOCOL I. OF THE CONFERENCE, DEFINING THE POSITION AND  
 REPRESENTATION OF THE SEVERAL POWERS, INCLUDING THE  
 DOMINIONS (DATED 18TH JANUARY, 1919).

ANNEX No. II. TO PROTOCOL No. I. OF PRE-  
 LIMINARY PEACE CONFERENCE, PARIS,  
 18TH JANUARY, 1919.

RULES OF THE CONFERENCE.

I.

The Conference summoned with a view to lay down the conditions of peace, in the first place by peace preliminaries and later by a definite Treaty of Peace, shall include the representatives of the allied or associated belligerent Powers.

The belligerent Powers with general interests (the United States of America, the British Empire, France, Italy, Japan) shall attend all sessions and commissions.

The belligerent Powers with special interests (Belgium, Brazil, the British Dominions and India, China, Cuba, Greece, Guatemala, Hayti, the Hedjaz, Honduras, Liberia, Nicaragua, Panama, Poland, Portugal, Roumania, Serbia, Siam, the Czecho-Slovak Republic) shall attend the sessions at which questions concerning them are discussed.

Powers having broken off diplomatic relations with the enemy Powers (Bolivia, Ecuador, Peru, Uruguay) shall attend sessions at which questions interesting them will be discussed.

Neutral Powers and States in process of formation shall, on being summoned by the Powers with general interests, be heard, either orally or in writing, at sessions devoted especially to the examination of questions in which they are directly concerned, and only in so far as those questions are concerned.

II.

The Powers shall be represented by Plenipotentiary Delegates to the number of—

Five for the United States of America, the British Empire, France, Italy, Japan;

Three for Belgium, Brazil, Serbia;

Two for China, Greece, the Hedjaz, Poland, Portugal, Roumania, Siam, the Czecho-Slovak Republic;

One for Cuba, Guatemala, Hayti, Honduras, Liberia, Nicaragua, Panama;

One for Bolivia, Ecuador, Peru, Uruguay.

The British Dominions and India shall be represented as follows:—

Two delegates each for Canada, Australia, South Africa, India (including the native States);

One delegate for New Zealand.

Each delegation shall be entitled to set up a panel, but the number of plenipotentiaries shall not exceed the figures given above.

The representatives of the Dominions (including Newfoundland) and of India can, moreover, be included in the representation of the British Empire by means of the panel system.

Montenegro shall be represented by one delegate, but the manner of his appointment shall not be decided until the present political situation of that country becomes clear.

The conditions governing the representation of Russia shall be settled by the Conference when Russian affairs come up for discussion.

III.

Each delegation of plenipotentiaries may be accompanied by duly accredited technical delegates and by two shorthand writers.

The technical delegates may attend sessions in order to supply information when called upon. They may be asked to speak in order to give necessary explanations.

IV.

The order of precedence shall follow the alphabetical order of the Powers in French.

V.

The Conference shall be opened by the President of the French Republic. The President of the French Council of Ministers shall thereupon provisionally take the chair.

The credentials of members present shall at once be examined by a committee composed of one plenipotentiary for each of the allied or associated Powers.

VI.

At the first meeting the permanent president and four vice-presidents shall be elected from among the Plenipotentiaries of the Great Powers in alphabetical order.

VII.

A secretariat chosen outside the ranks of the plenipotentiaries, consisting of one representative each of the United States of America, the British Empire, France, Italy, and Japan shall be submitted for the approval of the Conference by the president, who shall be in control of and responsible for it.

The secretariat shall draw up the protocols of the sessions, classify the archives, provide for the administrative organization of the Conference, and, generally, insure the regular and punctual working of the services intrusted to it.

The head of the secretariat shall be responsible for the safe custody of the protocols and archives.

The archives shall be accessible at all times to members of the Conference.

VIII.

Publicity shall be given to the proceedings by means of official communiques prepared by the secretariat and made public. In case of disagreement as to the wording of such communiques, the matter shall be referred to the chief plenipotentiaries or their representatives.

IX.

All documents to be incorporated in the protocols must be supplied in writing by the plenipotentiaries originally responsible for them.

No document or proposal may be so supplied except by a plenipotentiary or in his name.

X.

With a view to facilitate discussion, any plenipotentiary wishing to propose a resolution must give the president twenty-four hours' notice thereof, except in the case of proposals connected with the order of the day and arising from the actual discussion.

Exceptions may, however, be made to this rule in the case of amendments or secondary questions which do not constitute actual proposals.

XI.

All petitions, memoranda, observations, and documents addressed to the Conference by any persons other than the plenipotentiaries must be received and classified by the secretariat.

Such of these communications as are of any political interest shall be briefly summarized in a list circulated to all the plenipotentiaries. Supplementary editions of this list shall be issued as such communications are received.

All these documents shall be deposited in the archives.

## XII.

All questions to be decided shall be discussed at a first and second reading; the former shall afford occasion for a general discussion for the purpose of arriving at an agreement on points of principle; the second reading shall provide an opportunity of discussing details.

## XIII.

The plenipotentiaries shall be entitled, subject to the approval of the Conference, to authorize their technical delegates to submit direct any technical explanations considered desirable regarding any particular question.

If the Conference shall think fit, the study of any particular question from the technical point of view may be intrusted to a Committee composed of technical delegates, who shall be instructed to present a report and suggest solutions.

## XIV.

The protocols drawn up by the secretariat shall be printed and circulated in proof to the delegates with the least possible delay.

To save time, this circulation of the protocols in advance shall take the place of reading them at the beginning of the sessions. Should no alterations be demanded by the plenipotentiaries, the text shall be considered as approved and deposited in the archives.

Should any alteration be called for, it shall be read aloud by the president at the beginning of the following session.

The whole of the protocol shall, however, be read if one of the plenipotentiary members shall so request.

## XV.

A committee shall be formed to draft the motions adopted.

This committee shall deal only with questions which have been decided; its sole task shall be to draw up the text of the decisions adopted and to present them to the Conference for approval.

It shall consist of five members who shall not be plenipotentiary delegates, and shall comprise one representative each of the United States of America, the British Empire, France, Italy, and Japan.

(c)

**CORRESPONDENCE BETWEEN THE COMMONWEALTH GOVERNMENT AND THE SECRETARY OF STATE FOR THE COLONIES CONCERNING THE SIGNING AND RATIFICATION OF THE PEACE TREATIES.**

S.C. 101/113.

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 20TH JANUARY, 1919, 7.10 p.m.

Following is purport of regulations for dealing with representation of British Empire at Peace Conference. Belligerent Powers with general interest shall take part in all sittings and commissions. These comprise besides British Empire United States of America France Italy and Japan. Belligerent Powers with particular interests shall take part in sittings at which questions concerning them discussed. This group includes besides Belgium Brazil and other foreign States British Dominions and India. Five Powers named above shall each be represented by five plenipotentiary delegates Belgium Brazil and Serbia by three each Greece, Roumania and certain other States two each and one each for Cuba and certain other States. Article proceeds "the British Dominions and India shall be represented as follows two delegates each for Australia Canada South Africa and India (including the Native States) one delegate for New Zealand. Although the number of delegates may not exceed figures above mentioned each delegation has the right to avail itself of the panel system. Representation of the Dominions (including Newfoundland) and India may besides be included in the representation of the British Empire by the panel system" delegates take precedence according to alphabetical order in French of the Powers.

Prime Minister,

Melbourne, 23rd April, 1919.

Memorandum for:

The Acting Official Secretary to the  
Governor-General.

I am directed to request you to invite His Excellency the Governor-General to be so good as to sign the attached Order (the issue of which was approved at the meeting of the Executive Council held to-day), and when the seal has been fixed, to despatch the document to the Secretary of State for the Colonies. It is desired also that the terms of the Order be communicated to the Secretary of State for the Colonies by cablegram.

M. L. SHEPHERD,

Secretary.

**ORDER**

Commonwealth of Australia to wit.	By His Excellency the Governor-General of the Commonwealth of Australia.
(L.S.) R. M. FERGUSON, Governor-General.	

Whereas in connexion with the Peace Congress it is expedient to invest fit persons with full powers to treat on the part of His Majesty the King in respect of the Commonwealth of Australia with persons similarly empowered on the part of other States:

Now therefore I, Sir Ronald Craufurd Munro Ferguson, the Governor-General aforesaid, acting with the advice of the Federal Executive Council, do hereby order that His Majesty the King be humbly moved to issue letters patent to each of the following persons, namely, the Right Honorable William Morris Hughes, P.C., M.P., Prime Minister of the Commonwealth of Australia, and the Right Honorable Sir Joseph Cook, P.C., G.C.M.G., M.P., Minister of State for the Navy

of the Commonwealth of Australia, naming and appointing him as Commissioner and Plenipotentiary in respect of the Commonwealth of Australia with full power and authority as from the first day of January, 1919, to conclude with such plenipotentiaries as may be vested with similar power and authority on the part of any Powers or States, any treaties, conventions, or agreements in connexion with the said Peace Congress, and to do for and in the name of His Majesty the King in respect of the Commonwealth of Australia everything so agreed upon and concluded and transact all such other matters as may appertain thereto.

Given under my Hand and the Seal of the Commonwealth, at Melbourne, this 23rd day of (L.S.) April, in the year of our Lord One thousand nine hundred and nineteen, and in the ninth year of His Majesty's reign.

By His Excellency's Command,

W. A. WATT,

Acting Prime Minister.

S.C. 101/45.

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 28TH JUNE, 1919, 6.50 p.m.

E. 15.

June 28th. Peace Treaty with Germany signed by representatives of Allied and Associated Powers and by representatives of Germany to-day at 4 o'clock. Concluding article of Treaty provides that first proces verbal of deposit of ratification will be drawn up as soon as Treaty has been ratified by Germany on one hand and by three of principal Allied and Associated Powers on the other hand that from date of this first proces verbal Treaty will come into force between high contracting parties who have ratified it that for determination of all periods of time as provided for in Treaty this date will be date of coming into force of Treaty and that in all other respects Treaty will enter into force for each Power at date of deposit of its ratification.

Date of ratification i.e. of coming into force of Peace Treaty cannot be stated yet.

S.C. 101/61.

[Secret.]

DECIPHER OF CABLEGRAM FROM THE GOVERNOR-GENERAL, SOUTH AFRICA, DATED PRETORIA, 29TH JULY, 1919, 6 P.M.  
E. Ord. 144.

29th July. Have been requested by Secretary of State for the Colonies to deliver following message to Mr. Hughes and to repeat it to you. Am arranging communicate to Mr. Hughes. Message begins—

Now that Germany has ratified Treaty of Peace it is of the greatest importance that it should be ratified by us with the least possible delay as till this is done there can be no definite peace. As you are aware His Majesty can constitutionally ratify any treaty without consent of Parliament. British Government has, however, thought it desirable submit treaty to Parliament where it will be without doubt approved in the course of this week.

It is of course for you to decide whether you wish to submit treaty to the Parliament of Australia before its ratification by His Majesty. If so it would be necessary for you to do so immediately on your return. Ends.

S.C. 101/65A.

[Secret.]

DECIPHER OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 7TH AUGUST, 1919, 5.55 P.M.

MN83.

7th August. Urgent. My telegram 23rd July Peace Treaty sent to Hughes through Governor-General Union of South Africa and repeated to you. Following reply has been received begins.

Your telegram 23rd July. Propose lay Treaty of Peace before Parliament for ratification. Hughes. Ends.

Please telegraph earliest date on which formal assent of Commonwealth Parliament to ratification may be expected. Matter is urgent in view of severe pressure being put on us from Paris to ratify at earliest possible date. Canada holding special session to consider treaty 1st September and French ratification expected 2nd September or 3rd September.

S.C. 101/66.

[Secret.]

DECIPHER OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 12TH AUGUST, 1919, 8.25 P.M.

MN4.

12th August. Urgent. In continuation of my telegram of 7th August.

Government of Union of South Africa which has convened special session of Parliament to consider Peace Treaty with Germany being of opinion that it will be very desirable to secure uniformity in dealing with this question have asked me to submit suggestions as to form in which the Peace Treaty should receive Parliamentary approval in Dominions, that is whether approval should take form of Bill on lines of that submitted to Parliament here or of motion submitted to Parliament for that purpose. I have replied to effect that matter is of course one for decision of local Government but that in my opinion best course would be to obtain approval of Treaty by resolution of both Houses and that if as is probable legislation on lines of British Bill is required in order to give effect to Treaty this could follow later.

It is important to bear in mind that the British Bill is not a Bill to ratify Peace Treaty but to empower the Government to take the necessary steps to carry out those provisions of the Treaty which require legislative authority.

My reason for suggesting resolution of both Houses is that this procedure might enable ratification to take place without the delay that might be involved in obtaining Parliamentary powers for carrying out Treaty.

I should be grateful if you will inform me what procedure will be adopted by your Government. If as I hope procedure by resolution is adopted, I assume that there will be no objection His Majesty's ratifying immediately we receive cable to effect that such resolution has been passed and I have telegraphed in same sense to other Dominions.

COPY OF CABLEGRAM SENT BY THE ACTING PRIME MINISTER TO THE SECRETARY OF STATE FOR THE COLONIES ON 15TH AUGUST, 1919.

Your telegram 7th August: Am summoning Parliament for special consideration of Peace Treaty on Wednesday, 10th September. Impossible to arrange meeting before. Difficult to predict at this stage time required for its passage through both Houses but may be able to give you indication a little later on. You may rely upon utmost despatch by Commonwealth Government.

COPY OF CABLEGRAM SENT BY THE ACTING PRIME MINISTER TO THE SECRETARY OF STATE FOR THE COLONIES, 15TH AUGUST, 1919.

In reply to your telegram 12th August: View Commonwealth Government is that resolution is preferable course, but have had no opportunity of consulting Prime Minister. He arrives Western Australia next week and I will take earliest opportunity of conferring with him and communicate final decision.

S.C. 101/73.

[Secret.]

DECIPHER OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 26TH AUGUST, 1919, 12.45 P.M.

MN3.

26th August. Your telegram 18th August Peace Treaty with Germany.

Canada will proceed by way of resolution of both Houses in order that matter may be expedited legislation giving effect to treaty being introduced later.

Procedure by way of resolution will also be adopted by New Zealand.

S.C. 101/76.

[Secret.]

MN30.

DECIPHER OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 1ST SEPTEMBER, 1919, 6.45 P.M.

1st September. My telegram of 26th August Peace Treaty with Germany. Union of South Africa also will proceed by way of joint resolution.

S.C. 101/77.

[Urgent.]

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 6TH SEPTEMBER, 1919, 11.55 P.M.

MNS.

6th September. Urgent. Confidential. Parliamentary approval of Treaty of Peace with Germany. Have heard nothing from you since your two telegrams 18th August. New Zealand resolution already passed and Canadian and South African resolutions expected by Thursday next.

Please telegraph as soon as possible when Australian approval may be expected.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 8TH SEPTEMBER, 1919.

Your telegram 6th September: Parliamentary approval of Peace Treaty with Germany. Proceeding by resolution to be moved next Wednesday. Ratification probably within fortnight.

COPY OF CABLEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, 27TH SEPTEMBER, 1919.

September 27th. According to present arrangements date for signature of Treaty with Bulgaria October 25th. Whom would your Ministers wish to appoint to sign on behalf of Australia?

S.C. 101/93.

DECODE OF TELEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 30TH SEPTEMBER, 1919.

12.25 P.M.

MN4.

With reference to your telegram 9th September Peace Treaty when may approval of Commonwealth Parliament be expected.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 3an OCTOBER, 1919.

Your telegram 27th September. High Commissioner for Australia is authorized to sign Treaty with Bulgaria on behalf of Australia.

THE PARLIAMENT OF THE COMMONWEALTH.  
HOUSE OF REPRESENTATIVES.

*Extract from the Votes and Proceedings, No. 156, dated 19th September, 1919.*

3. Peace Treaty between Allies and Germany. The Order of the Day having been read for the resumption of the debate on the following motion of Mr. Hughes— "That this House approves of the Treaty of Peace between the Allied and Associated Powers and Germany signed at Versailles on the 28th June, 1919"—and on the Amendment moved thereto by Mr. J. H. Catts, viz.:—"That the following words be added to the motion, 'That owing to the limited amount of information placed before Parliament in relation to the Peace Treaty, its commitments and responsibilities, the whole matter be referred to a Committee of both Houses of the Parliament for inquiry and report'"—

Debate resumed.

Question—That the words proposed to be added be so added—put and negatived.

Debate on original motion continued.

Question—That the motion be agreed to—put and passed.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 2ND OCTOBER, 1919.

Your telegram 30th September. Peace Treaty and Anglo-French Treaty approved by both Houses of Commonwealth Parliament.

S.C. 101/96.

DECODE OF TELEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 4TH OCTOBER, 1919, 7.45 P.M.

MN. 70.

With reference to your telegram October 3rd, most satisfactory to know that Treaty of Peace with Germany approved by Commonwealth Parliament. Parliaments of Canada, New Zealand, and Union of South Africa have approved also.

S.C. 101/98.

E. 29.

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, OCTOBER 11TH, 1919, 2.30 P.M.

October 11th. With reference to my telegram 4th October General Instrument for ratification of Treaty of Peace with Germany and its protocol, Rhine Territory Agreement, and Treaty concerning Poland signed by the King October 8th.

S.C. 101/115.

DECODE OF CABLEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 27TH NOVEMBER, 1919, 10.55 A.M.

73.

November 27th. In view of present precarious situation in Central and South-eastern Europe His Majesty's Government are anxious that Treaty with Austria and other connected Treaties should be ratified as soon as possible and as soon as legislation with regard to Austrian Treaty on lines of that with regard to German Treaty has been passed by Parliament here they would be glad to be in position to advise His Majesty the King to ratify Austrian-Czecho-Slovak and Serb-Croat-Slovene Treaties contained in my despatches

of October 17th Dominions 786, 783, 785. His Majesty's Government would be glad to know as soon as possible whether your Ministers concur in proposed ratification. Please telegraph reply.

S.C. 101/124.

[Urgent.]

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 9TH DECEMBER, 1919, 5.50 P.M.

Ord. 33.

*Matter most urgent.* December 9th. Certain modifications have been made in agreement signed St. Germain, September 10th, regarding contributions to cost of liberation of territory of former Austro-Hungarian Monarchy see paragraph 1 (5) of my despatch October 17th Dominions 786. Declaration accepting this modification now ready for signature of representatives of Allied and Associated Powers and will remain open until December 22nd. As original agreement signed by representatives of Dominions necessary that modifications should be also signed on their behalf. Whom would your Ministers wish to appoint as their representative? Sir Eyre Crowe present head of British Peace Delegation, Paris, has already authority to sign on behalf of India and if your Ministers see no objection it might be convenient for him to sign above declaration on behalf of Dominions also. If your Ministers agree same arrangement might be made in respect of Roumanian Minorities Treaty now ready for signature and any other documents of similar minor character requiring signature on behalf of Dominions which might arise out of Peace settlement. *Telegraph reply with least possible delay.*

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 12TH DECEMBER, 1919.

Your telegram 9th December. High Commissioner for Australia is authorized to sign modification of Austrian Peace Treaty on behalf of Australia, or failing his ability to do so, Sir Eyre Crowe is authorized to sign.

S.C. 101/126.

[Urgent.]

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, DECEMBER 13TH, 1919, 2.15 P.M.

MN. 16.

*Matter most urgent.* With reference to your telegram December 12th, Signature of modification of Austrian Treaty of Peace: Presume that your reply applies also to other documents mentioned in my telegram of December 9th.

*Telegraph reply with least possible delay.*

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 15TH DECEMBER, 1919.

Your telegram 13th December. Signature of modification of Austrian Treaty of Peace. You are correct in assuming my reply applies also to other documents mentioned your telegram December 9th.

S.C. 101/130.

DECODE OF TELEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, THE 23RD DECEMBER, 1919, 2.25 P.M.

MN95.

With reference to my telegram November 27th ratification of Treaty Austria and other connected Treaties; please reply with least possible delay.



COPY OF TELEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 6TH JANUARY, 1920.

"Your telegram 28th. November: Commonwealth Ministers concur in proposed ratification of Austrian, Czecho Slovac, and Serb Croat Slovene Treaties."

DECODE OF TELEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 14TH FEBRUARY, 1920, 11.10 A.M.

February 14th. With reference to my despatch October 20th Dominions 788 notification received from Bulgarian Government that they are ready to ratify Treaty of Peace. Would be glad to learn as early as possible whether your Ministers agree that His Majesty the King should ratify. Treaty with protocol annexed signed November 27th enclosed my despatch January 28th, Dominions 42.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 25TH FEBRUARY, 1920.

"Your telegram 14th February. Commonwealth Government agrees that His Majesty should ratify Treaty of Peace with Bulgaria."

S.C. 101/186.

[Urgent.]

DECODE OF TELEGRAM RECEIVED FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, THE 5TH MAY, 1920, 7.5 P.M.

May 5th. Text of Turkish Treaty expected to be ready for presentation to Turkish Delegates at Paris May 11th. Desired to inform them on this occasion who will eventually sign for Dominions. Please telegraph at once whether High Commissioner will be authorized to sign.

COPY OF CABLEGRAM RECEIVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 7TH MAY, 1920.

May 7th. If Hungarian Delegation agrees to sign Peace Treaty May 16th signature may take place about 20th May. Please telegraph whether High Commissioner authorized to sign.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 11TH MAY, 1920.

"Your telegram 5th May. High Commissioner for Australia is authorized to sign Turkish Treaty on behalf of Commonwealth."

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 13TH MAY, 1920.

"Your telegram 7th May. High Commissioner authorized to sign Hungarian Treaty."

S.C. 22/2.

DECODE OF CABLEGRAM FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, JUNE 8TH, 1920, 5.50 P.M.

MN133.

June 8th. Hungarian Treaty of Peace signed Grand Triaon Palace June 4th. Foreign countries signing were United States of America France Italy Japan Belgium Caha China Greece Nicaragua Panama Poland Portugal Roumania Serb Croat Slovene State Siam Czecho Slovakia. High Commissioner signed on behalf of Commonwealth of Australia.

F.6597.-2

S.C. 20/10.

[Secret.]

DECIPHER OF TELEGRAM RECEIVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 6TH JULY, 1920, 1.55 P.M.

July 6th. On various occasions recently minor treaties conventions etcetera arising out of peace settlement have been drawn up at Paris which require signature on behalf of Dominions and several others are pending e.g., one as to Bessarabia. It is difficult to forecast exactly when such treaties etcetera will be ready for signature but strong pressure is often exercised to bring about signature at short notice on account of political considerations involved, see for example my telegram of June 29th Schleswig. It has been suggested that it would be of convenience and also save time if Dominion Governments were willing to give a general authorization to His Majesty's Ambassador at Paris to sign on their behalf any minor treaties conventions etcetera. Lord Derby has already full power to sign on behalf of India all treaties etcetera arising out of Peace Conference. Please telegraph view of your Ministers. It would be of course understood that if suggestion acceptable Dominion Governments would continue to be informed in advance of nature of documents to be signed so that they would have opportunity of arranging for special signature on their behalf in any case where they desired such signature. Similar telegram sent to other Dominions.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 19TH JULY, 1920.

"Your telegram 6th July. Signing of minor treaties. Commonwealth Government is desirous that these treaties, conventions, &c., be signed by High Commissioner on behalf of Australia, and that in all matters of importance Commonwealth Government be afforded opportunity of expressing opinion before treaties submitted to High Commissioner for signature."

S.C. 20/40.

[Urgent.]

DECODE OF TELEGRAM RECEIVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, THE 9TH OCTOBER, 1920, 5.40 P.M.

October 9th. Urgent. Bessarabian Treaty referred to in my telegram July 6th now nearly ready for signature. Final text not received yet from Paris but according to first draft which alone available London sovereignty of Roumania recognised over Bessarabia and guarantee of liberty and justice insured by Roumania to inhabitants. Remaining articles concerned mainly with questions relating to future nationality of nationals of former Russian Empire habitually resident in Bessarabia and with assumption by Roumania of proportional part affecting Bessarabia of Russian public debt and other Russian public liabilities. Please telegraph whether Ministers agree to signature on their behalf.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 13TH OCTOBER, 1920.

"Your telegram October 9th. Commonwealth Government agrees signature Bessarabian Treaty."

S.C. 22/6.

DECODE OF CABLEGRAM RECEIVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 18TH NOVEMBER, 1920, 2.10 P.M.

ORD. 56/18.

November 18th. My despatch July 29th Treaty 24. Hungarian Treaty ratified by Hungarian National Assembly November 13th. Should be glad to know as soon as possible by telegraph whether your Ministers agree to ratification by His Majesty the King.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 20TH NOVEMBER, 1920.

"Your telegram 18th November Commonwealth Government agrees to ratification of Hungarian Treaty by His Majesty the King."

S.C. 20/65.

DECODE OF CABLEGRAM RECEIVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL FROM THE SECRETARY OF STATE FOR THE COLONIES, DATED LONDON, 1st DECEMBER, 1920, 5.30 P.M.

ORD. 52/1.

December 1st. With reference to my despatch September 15th Dominions Treaty 37, proposed that ratification of Central European Frontiers Treaty by His Majesty the King should take place simultaneously with ratification of Hungarian and Bessarabian Treaties; see my telegram December 1st. Should be glad to know as early as possible by telegraph whether your Ministers agree to ratification.

COPY OF CABLEGRAM SENT TO THE SECRETARY OF STATE FOR THE COLONIES, 6TH DECEMBER, 1920.

"Your telegrams 1st December: Commonwealth Government agrees to ratification of Bessarabian Treaty and Central European Frontiers Treaty by His Majesty the King."



(d)

ORDER IN COUNCIL PASSED IN AUSTRALIA, MOVING HIS MAJESTY THE KING TO ISSUE LETTERS PATENT APPOINTING PLENIPOTENTIARIES IN RESPECT OF THE COMMONWEALTH OF AUSTRALIA.

## ORDER

Commonwealth of Australia to wit.  
R. M. FERGUSON,  
Governor-General.

By His Excellency the Governor-General of the Commonwealth of Australia.

Whereas in connexion with the Peace Congress it is expedient to invest fit persons with full powers to treat on the part of His Majesty the King in respect of the Commonwealth of Australia with persons similarly empowered on the part of other States:

Now therefore I, Sir Ronald Craufurd Munro Ferguson, the Governor-General aforesaid, acting with the advice of the Federal Executive Council, do hereby order that His Majesty the King be humbly moved to issue letters patent to each of the following persons, namely, the Right Honorable William Morris Hughes, P.C., M.P., Prime Minister of the Commonwealth of Australia, and the Right Honorable Sir Joseph Cook, P.C., G.C.M.G., M.P., Minister of State for the Navy

of the Commonwealth of Australia, naming and appointing him as Commissioner and Plenipotentiary in respect of the Commonwealth of Australia, with full power and authority as from the first day of January, 1919, to conclude with such plenipotentiaries as may be vested with similar power and authority on the part of any powers or States, any treaties, conventions or agreements in connexion with the said Peace Congress and to do for and in the name of His Majesty the King in respect of the Commonwealth of Australia everything so agreed upon and concluded and transact all such other matters as may appertain thereto.

Given under my Hand and the Seal of the Commonwealth, at Melbourne, this 23rd day of (L.S.) April, in the year of our Lord One thousand nine hundred and nineteen, and in the ninth year of His Majesty's reign.

By His Excellency's Command,

W. A. WATT,  
Acting Prime Minister.

# **ANNEXURE 12**

1. Extract from Australian Parliamentary debates. The House of Representatives 30th September 1921, pp 11630, 11631.

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**AUSTRALIA**  
**The concealed colony**

lodge an appeal against his assessment, and all appeals are most carefully and exhaustively investigated. If then dissatisfied with the decision given, he can further appeal. The medical examinations are made by the departmental medical officers, and the staffs of assistant departmental medical officers, and wherever the Commission considers the circumstances warrant it the case is referred to a specialist for advice.

#### PAPERS.

The following papers were presented:—

Norfolk Island—Report for the year ended 30th June, 1921.

Papua—Oilfields in—Reports on operations of the Anglo-Persian Oil Company during March to July, 1921.

Ordered to be printed.

#### IMPERIAL CONFERENCE.

STATUS OF DOMINIONS — EMPIRE'S FOREIGN POLICY — ANGLO-JAPANESE TREATY—THE PACIFIC PROBLEM—DISARMAMENT CONFERENCE — CONSTITUTIONAL CONFERENCE.

Mr. HUGHES (Bendigo—Prime Minister and Attorney-General) [11.30].—(*By leave.*)—On the 7th April, 1921, I made a statement to this House setting out the principal questions to be considered at the Conference, and giving reasons why Australia should be represented. Let me remind you of what I then said—

The Conference has been summoned to deal with questions of foreign policy, naval defence, and the renewal of the Anglo-Japanese Treaty. Certain other subsidiary matters are also set out on the agenda-paper. One relates to communications (including - wireless) between various parts of the Empire; but I shall direct my remarks mainly to those matters which are of fundamental importance.

I emphasized the importance of foreign policy to Australia in general and the Anglo-Japanese Treaty in particular, the dependence of the Empire on sea power, and expressed my opinion that the Treaty ought to be renewed, and in such form, if that should prove by any means possible, as would be satisfactory to America. I concluded by saying—

If I am asked if the Commonwealth is to be committed to anything done at the Conference, I say, quite frankly, that this Parliament will have the amplest opportunity of expressing its opinion on any scheme of naval defence that is decided upon before the scheme is ratified.

As to the renewal of the Treaty with Japan, this is my attitude, and I submit it to the consideration of honorable members: I am in favour of renewing the Treaty in any form that is satisfactory to Britain, America, and ourselves. I am prepared to renew it in these

circumstances. If it is suggested that the renewal should take the form which would involve the sacrifice of those principles which we ourselves regard as sacred, I am not prepared to accept it. In such circumstances, I shall bring back the Treaty to this Parliament. I think I have put the situation clearly; and since these matters have sometimes to be settled quickly, I want honorable members to say whether they will give me the authority I ask for.

With regard to the expenditure involved in any naval scheme, the House will not be committed to the extent of one penny. The scheme will be brought before Parliament, and honorable members will be able to discuss, and accept or reject it.

Honorable members, therefore, were fully aware of the main objects of my mission and of my attitude towards them. I undertook not to commit Australia to any expenditure unless approved by Parliament. The Parliament gave me the authority I asked for, and on the 28th April I left for London. I have been absent just five months, and now, at the earliest possible moment after my return, I propose to inform the Parliament and the country of what the Conference did.

I need hardly say that the pledges given by me have been carried out, not only to the letter, but in the spirit. The Commonwealth is not committed to any expenditure. Everything done is subject to parliamentary approval, and Parliament will have the fullest opportunity of expressing its opinions.

Before plunging into the details of the subjects dealt with in London, a few prefatory words about the Conference itself seem called for.

The recent meeting of the Prime Ministers of Great Britain and the overseas Dominions differed in many respects from those which preceded it. Prior to the war, Imperial Conferences were ceremonious and social functions rather than serious attempts to co-ordinate the activities of a far-flung Empire. The experiences of war showed clearly that as the safety of every part of the Empire depended upon united action, means for insuring to each member an effective share in guiding its course must be devised. Matters over which we had no control, in shaping which we had no voice, about which we were indeed quite ignorant, had led to a declaration of war by Great Britain in 1914. A bolt had fallen from the blue; Britain was at war; as part of the Empire we were involved. Britain had done much for us, under her sheltering wing we had rested for over a century

in perfect peace and security. Our hour of great trial had come; we had to prove ourselves worthy of the traditions of our race and our liberties, or perish.

The war has changed many things. It has destroyed dynasties, uprooted ancient institutions, readjusted the boundaries of the nations, and created many difficult problems; but it has also given us a wider and more splendid concept of Empire. We have realized that the British Empire is a partnership of free nations, every one being free to act as it pleases, yet all united in council and in action. Our isolation did not insure our safety. Before the war, we had stood aloof from world politics, yet the maelstrom of war engulfed us, and this young Democracy has proved itself worthy of its breeding and of its liberties. The legions of Australia fought alongside those of Britain and the other Dominions. Our ships were on every sea; our armies in the forefront of the far-flung battle line in Europe and \* Asia. We had been a Dominion; the war made us a nation within the Commonwealth of Nations. The admission of the representatives of the Dominions into the Imperial War Cabinet marked the first great step in the new era. Then came the Peace Conference on which the Dominions were granted separate representation, and sat on a footing of equality with the great nations of the earth. But not only was our status as nations thus conceded, but by virtue of our membership of the British Empire we exercised an influence and wielded an authority far greater than that of the majority of the nations gathered round the Peace Table, for as members of the British Empire Delegation—the name by which the Imperial Cabinet was known during the Peace Conference—we enjoyed privileges denied to all save the great Powers; we were consulted on the vital matters which came before the Council of the Four, and our voices and votes shaped the policy which the British representatives urged in that Council. We affixed our signatures to the Versailles Treaty.

The status granted in War has been confirmed in times of Peace. Mr. Lloyd George in his opening Speech to the Conference said:—

In recognition of their services and achievements in the war the British Dominions have now been accepted fully into the comity of

the nations of the whole world. They are signatories to the Treaty of Versailles and of all other Treaties of Peace; they are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League; in other words, they have achieved full national status, and they now stand beside the United Kingdom as equal partners in the dignities and responsibilities of the British Commonwealth. If there are any means by which that status can be rendered even more clear to their own communities and to the world at large, we shall be glad to have them put forward at this Conference.

In these words, the Prime Minister of Britain, the President of the Conference, set out in clear unambiguous language the concept of a partnership of free nations, all equal in dignity and responsibility, to which the Conference subsequently formally and officially set its seal.

I ask this House and this country to note all that is involved in these words of the Prime Minister of Britain, accepted by his colleagues and indorsed by the Conference, I ask them to contrast this concept of a British Commonwealth comprised of free nations, each enjoying the status of nationhood, each claiming and being accorded an equal voice in shaping Empire policy, with that other concept, which, not many years ago, stood unchallenged—of Britain supreme in power and authority, deciding without question the destiny of all. In those days when one spoke of Empire the British communities oversea seemed only the appanages of Britain's glory; Britain loomed so large as to dwarf all others. In the minds of men Britain was the Empire.

But the years have passed; much water has run under the bridges, much blood has been shed; the Dominions have established their right to be treated as equals, and Britain, not waiting for formal demand, has been the first to acclaim and gladly welcome us as her equal, and bid us sit with her at the Council table of Empire.

The Imperial Conference of 1921 was one in which all members met as equals to discuss not the prosecution of a war, on which common agreement was easily attainable, but the intricacies of foreign policy in many countries and the measures necessary for the safety and prosperity of the whole Empire.

For the first time, then, in the history of this great Empire the representatives

# ANNEXURE 13

1. Copies of extracts Parliamentary Debates House Representatives 10th September 1919. Specific reference p 1219.
2. Copy of Treaty of Peace Act, No 20 of 1919.
3. Copy of Treaty of Peace Act No 39 of 1920
4. Extract from Commonwealth Parliamentary paper '*Trick or Treaty Commonwealth Power to Make and Implement Treaties*'.

is immaterial to the Government whether any of these individuals is a member of an association or not. A pledge was given to men who did certain things at a certain time. That pledge will be honoured.

Senator BAKHAP.—Hear, hear! I hope so!

Senator MILLEN.—But the Government does not intend that other persons who came in afterwards, and enrolled in an association which had been formed by the men to whom the Government had given that pledge, shall reap where they have not sown.

Senator BAKHAP.—But, surely, investigation will prove the merits of the matter!

Senator MILLEN.—That is just what I was about to say. We cannot accept the statements of the men who claim the benefits of our pledge as sufficient in themselves. Senator Bakhap would not suggest that. Every man will be given opportunity to prove his claim—to show whether or not he did come to the rescue of the Government at the time when it asked him to do so. I am desirous that the pledge of the Government shall be carried out, both in the letter and in the spirit. We do not propose, however, to permit those who in no sense came to the country's help at first, but came afterwards—those who are hangers-on to the others—to secure the benefit of the pledge given to other men.

Question resolved in the affirmative.

Senate adjourned at 3.14 p.m.

## House of Representatives.

Wednesday, 10 September, 1919.

Mr. SPEAKER (Hon. W. Elliot Johnson) took the chair at 3 p.m., and read prayers.

### ASSENT TO BILLS.

Assent to the following Bills reported:—

Moratorium Bill.  
Commercial Activities Bill.  
Wireless Telegraphy Bill.

[459]—2

## PAPERS.

The following papers were presented:—  
Peace Treaty.—Between the Allied and Associated Powers and Germany, signed at Versailles, 28th June, 1919.

Ordered to be printed.

Customs Act—Regulations Amended—Statutory Rules 1919, No. 205.

Defence Act—Regulations Amended—Statutory Rules 1919, Nos. 204, 206, 207, 208.

Entertainments Tax Assessment Act—Regulations Amended—Statutory Rules 1919, No. 211.

Lands Acquisition Act—Land acquired under, at—

Adelaide, South Australia—for Repatriation purposes.

Brisbane, Queensland—for Repatriation purposes.

Port Adelaide, South Australia—For Customs purposes.

Northern Territory—Ordinance of 1919—No. 10—Deputy Administrator.

Public Service Act—Promotions—Department of the Treasury—

G. C. Allen, M. D. Briggs, E. O. Walters, W. Hayes, J. A. W. Stevenson.

H. Kinnish, H. C. Higgins, C. T. C. Hills, F. G. H. Garrett.

War Precautions Act—Regulations amended—Statutory Rules 1919, No. 203.

## TREATY OF PEACE.

Mr. HUGHES (Bendigo—Prime Minister and Attorney-General) [3.4].—I desire, by leave, to move—

That this House approves of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles on the 28th June, 1919.

I wish also to move—

That this House approves the Treaty made at Versailles on the 28th June, 1919, between His Majesty the King and the President of the French Republic, whereby, in case the stipulations relating to the left bank of the Rhine, contained in the Treaty of Peace with Germany, signed at Versailles on the 28th day of June, 1919, by the British Empire, the French Republic, and the United States of America, among other Powers, may not at first provide adequate security and protection to France, Great Britain agrees to come immediately to her assistance in the event of any unprovoked movement of aggression against her being made by Germany.

I think it would be better for the House to deal with the two motions in the one debate. They can be put separately.

Mr. TUDOR.—Can we do that, Mr. Speaker?

Mr. SPEAKER (Hon. W. Elliot Johnson).—It would be a rather novel and inconvenient procedure to have two

motions before the House at the one time, although, if the two relate practically to the same matter, their separate discussion might lead to overlapping and repetition of the same matter. Perhaps the two could be incorporated in one motion divided into two parts.

Mr. HUGHES.—Very well, sir. My purpose will be served if I move the first motion, and merely give notice of the second.

Mr. SPEAKER.—Is it the pleasure of the House that the Prime Minister have leave to move his motion without notice?

HONORABLE MEMBERS.—Hear, hear!

Mr. SPEAKER.—Leave is granted.

Mr. HUGHES.—I move—

That this House approves of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles on the 28th June, 1919.

Plunged as I am into an atmosphere with which I am very familiar, yet from which I have been absent for many months, I feel that I must preface what I have to say in regard to the motion by expressing my satisfaction at being once more among those with whom I have been associated so long.

Since I left for England no less than four men who have been members of this House during the period in which most of us have had the honour of representing the people here have died. I refer to Lord Forrest, Sir George Reid, Mr. Manifold, and Mr. Palmer. Their deaths have come in at least two cases without warning. All were men who did their work manfully, and endeavoured to serve their country to the very best of their ability. I wish to express my deep regret at their death, and to say how much I sympathize with those whom they have left behind.

I find myself to-day confronted with a task which, for many reasons, presents a thousand difficulties. I have laid on the table of the House a copy of the Treaty of Versailles, which is not as other Treaties that have marked the cessation of war and the making of peace between contesting nations in the days that have gone. It is a document of monumental importance, the like of which the world has never before seen. It not only makes peace between Germany and the Allied and Associated Powers, but it also re-appoints great areas of territory in Europe, Asia, the Pacific, and Africa.

It is the charter of a new world. We must examine it in that light, if we wish to ascertain whether it is worthy of the ideals for which the Allies fought and the sacrifices which they made to realize them.

It would be quite impossible to present to this House the reasons for the acceptance of this Treaty without a glance at the circumstances which existed at and before our departure from Australia, and also of those which immediately preceded the negotiations, long drawn out, of which this Treaty is the result. Before my right honorable colleague (Sir Joseph Cook) and myself left Australia, the fortunes of the Allies had reached their nadir. It is no abuse of words to say that their position was almost desperate. How desperate it was, can hardly be realized by those who have lived these five years in a land remote from the faintest echoes of this world-wide strife, and who, sheltered behind the barrier of the valour and heroism of the millions who fought so gloriously for freedom and for those other great ideals upon which civilization rests, pursued the even tenor of their way, basking in sunshine, and enjoying indeed a prosperity which was unhappily not shared by the great majority of the peoples of the world.

A month or so before we left Australia, and at the very time when a Recruiting Conference, called by His Excellency the Governor-General, was being held at Government House, in this city, the great German offensive was launched against the sorely-tryed British front. On the 21st March, 1918, the legions of the enemy, inspired by the hope of speedy victory, and having at their disposal an overwhelming superiority of numbers at that point, hurled themselves against the Fifth Army, which, resisting valiantly, was, after some days, bruised and beaten, and driven back in headlong retreat. It is well-nigh impossible for honorable members to realize to the full all that the piercing of the Allied line meant, not merely to Europe and to the capital of France, which it directly threatened, but to all the world. Let me try to set out, as well as I can in the poor words that I can summon at this moment, the position as it then was. There is no need for the language of exaggeration. It was a posi-

which Australia had fought was guaranteed, and, as is well known to the people of Australia, I took the earliest possible opportunity of making a strong and emphatic protest against what had been done.

I wish to make clear to the House what I did for my attitude, as well as my utterances, have been much misrepresented in Australia. I did not claim that the representatives of the Dominions should have been summoned to Versailles. Nothing was further from our thoughts. The settlement of the terms of the Armistice was a military matter, with which I was totally unfitted to deal, as, indeed, were all the representatives of the Dominions. But in regard to the terms of Peace, the Dominions had been assured—nay, every one of them had a right to expect, apart from any assurance—that they would be consulted before those terms were settled. We were not consulted, and, speaking in London on, I think, the day following the issue of the Allied Note, I said—

We went into this war to fight for liberty and the rights of small nations. We are a small nation, conscious of our national spirit, and jealous of our rights and liberties. Germany threatened our territorial integrity and our political liberty. We, along with the Allies, have won, after four years of fearful sacrifice, a decisive victory. We have a right to demand a victorious peace. We have a right to demand that in the terms of Peace our territorial integrity shall be guaranteed, that those islands, which are the gateways to our citadel, shall be vested in us, not because we want territory, but because we desire safety. The terms of Peace do not guarantee that this shall be done.

Before the war we had the right to make what laws we pleased. These Peace terms seem to imperil, or, at best, impair, that right. We claim the right, and shall insist upon it, to make what Tariff distinctions we like; and we feel sure that in this demand we shall have, not only the support of the people of Britain, but that of America, that great Republic, the foundations of whose greatness rest upon their War of Independence, waged to establish this very right. And, lastly, we claim that indemnities shall be exacted from Germany, who plunged the whole world into bloody war.

Victory is ours—complete and overwhelming. We have fought for liberty, for right, and national safety; yet in the terms of Peace these rights and ideals are not safeguarded. All is vague and uncertain, where it should be clear and definite.

Australia stands, after four years of dreadful war, her interests not guaranteed, her rights of self-government menaced, and with no provision made for indemnities. That is

*Mr. Hughes.*

the position, and it can hardly be regarded as satisfactory.

What Australian will say that I did wrong? Who shall say that Australia, after having suffered over four and a half years of war, and having made such sacrifices, should not be clearly and freely guaranteed those things without which she could not live as a free nation? I did not say that President Wilson's fourteen points prevented us from getting these; I said that they did not guarantee them. They guaranteed to France the return of Alsace Lorraine, and to other nations many things. Later I shall show this House and the country how those fourteen points hampered and limited us throughout the Peace negotiations, and how great was the price we and the whole world paid for their adoption. I have always been one of the first to recognise the many and great services rendered by President Wilson to this world, and rendered by America in the war. I am one of those who believe that had America had a chance to express her opinion, she, too, like ourselves, would have been in favour of a victorious Peace, rather than one based on President Wilson's fourteen points.

Because this Treaty and this Conference differed from others in that it rested upon the foundations of open covenants, openly arrived at, I need make no apology for stating clearly to this House and to the people of this country, whom we all serve, some of those things which, in other Treaties, are placed in secret archives. It is only right that the whole world should know how this Treaty has been arrived at, and what it really means.

I have said that I thought it proper that Australia should have been consulted, as other belligerents have been, concerning the terms of Peace. It may be said, of course, that the terms of Peace were not based on President Wilson's fourteen points. But the facts speak for themselves. I shall quote some that will be sufficient. It was abundantly evident to my colleague and to myself, as well as to the representatives of other Dominions, that Australia must have separate representation at the Peace Conference. Consider the vastness of the Empire, and the diversity of interests represented. Look at it geographically, industrially, politically, or how you will, and it will be seen that no one can speak for Australia



but those who speak as representatives of Australia herself. Great Britain could not, in the very nature of things, speak for us. Britain has very many interests to consider besides ours, and some of those interests do not always coincide with ours. It was necessary, therefore—and the same applies to other Dominions—that we should be represented. Not as at first suggested, in a British panel, where we would take our place in rotation, but with separate representation like other belligerent nations. Separate and direct representation was at length conceded to Australia and to every other self-governing Dominion.

By this recognition Australia became a nation, and entered into a family of nations on a footing of equality. We had earned that, or, rather, our soldiers had earned it for us. In the achievement of victory they had played their part, and no nation had a better right to be represented than Australia. This representation was vital to us, particularly when we consider that at this world Conference thirty-two nations and over 1,000,000,000 people were directly represented. It was a Conference of representatives of the people of the whole world, excepting only Germany, the other enemy Powers, Russia, and a few minor nations. In this world Conference, the voice of this young community of 5,000,000 people had to make itself heard. In this gathering of men representing nations with diverse and clashing interests, Australia had to press her views, and to endeavour to insist upon their acceptance by other nations. Without such representation that would have been impossible.

Let me give honorable members some idea of the Conference, which consisted of more than seventy delegates—about as many as there are honorable members of this Chamber—men of all colours, and from every part of the world. There were representatives from China, Japan, Liberia, Hayti, Siam, Brazil, America, Britain, India, Roumania, Poland, and Greece. There were men speaking diverse tongues, and having ideals as far asunder as the poles. There were interests which had their origin in thousands of years of tradition, and in race and geographical position. Here was Australia, an outpost of the Empire, a great continent peopled by a handful of men, called upon to defend,

amongst other things, a policy which could not be understood, and which was not understood, by those with whom we consorted. I speak of the policy of a White Australia. Imagine the difficulties of the position, and the elashing of warring interests; for, while the world changes, human nature remains ever the same. While there was a sincere desire to obtain a just Peace, each nation's conception of justice differed. Each nation desired what it considered necessary for its own salvation, though it might trench on the liberties, rights, or material welfare of others.

The full Conference was too unwieldy a body for the delicate and difficult work of drafting the Treaty, or arriving at agreements upon which it might be drafted. Therefore, the work was really done by the Council of Ten—that is to say, by the representatives of the five Great Powers, Great Britain, France, the United States of America, Italy, and Japan—by special Commissions of foreign Ministers dealing with territorial claims, and by informal diplomatic conversations and interviews between various delegates seeking to support and promote the welfare of their own countries. Commissions were appointed to deal with dozens of different matters. My right honorable friend, the Minister for the Navy (Sir Joseph Cook) was appointed upon the Czechoslovak Commission. I do not know whether he will speak to you now in the tongue of the Czechoslovaks, but, if so, we shall give him, if not an enthusiastic, at least a cordial reception. I had been chairman of the British Reparation Committee, which held its meetings in London prior to the Conference, and I was vice-chairman of the Allied Commission which met in Paris, and comprised representatives of all the nations chiefly interested in reparation.

The draft Treaty was presented to Germany on 7th May, 1919, and was, as you know, the subject of many communications between Count von Brockdorff Rantzau and the Allies. In its modified form it was finally accepted, and signed at Versailles on 28th June, 1919. The Treaty is before the House. It is a document monumental in more senses than one. It is not only the charter of a new world, it

6. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act. Regulations.

## TREATY OF PEACE.

No. 20 of 1919.

An Act to carry into effect the Treaty of Peace with Germany.

[ Assented to 28th October, 1919.]

**W**HEREAS at Versailles, on the twenty-eighth day of June, nineteen hundred and nineteen, a Treaty of Peace with Germany (including a protocol annexed thereto) a copy of which has been laid before each House of the Parliament, was signed by representatives of the Commonwealth of Australia on behalf of His Majesty the King, and it is expedient that the Government of the Commonwealth should have power to do all such things as are necessary and expedient for giving effect to the said Treaty on the part of the Commonwealth: Preamble.

Be it therefore enacted by the King's Most Excellent Majesty, the Senate and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Treaty of Peace Act* 1919. Short title.

2. The Governor-General may make such regulations and do such things as appear to him to be necessary for carrying out and giving effect to the provisions of Part X. (Economic Clauses) of the said Treaty. Regulations.

3. The regulations may provide for the punishment of offences against the regulations, by the impositions of the following penalties :— Contraventions of regulations.

- (a) If the offence is prosecuted summarily—a fine not exceeding Five hundred pounds or imprisonment for any term not exceeding twelve months; or both;
- (b) If the offence is prosecuted upon indictment—a fine of any amount or imprisonment for not more than seven years, or both.

Duration of  
Judiciary Act  
1915.

3. Section one of the *Judiciary Act* 1915 is amended by omitting sub-section (4.) thereof, and that Act shall continue in force as if that sub-section had not been enacted.

4. After section thirty-three of the Principal Act the following section is inserted :—

Awards  
may be made  
Rules of Court.

“33A. The High Court may by order direct that an award in an arbitration in respect of any matter over which the High Court has original jurisdiction, or in respect of which original jurisdiction may be conferred upon the High Court, shall be a Rule of the High Court.”

Jurisdiction of  
State Courts in  
criminal cases.

5. Section sixty-eight of the Principal Act is amended—

(a) by inserting in sub-section (1.) thereof, after the word “shall” the words “, subject to this section,”; and

(b) by adding at the end thereof the following sub-section :—

“(4.) The several Courts of a State exercising the jurisdiction conferred upon them by this section shall, upon application being made in that behalf, have power to order, upon such terms as they think fit, that any information laid before them in respect of an offence against the laws of the Commonwealth shall be amended so as to remove any defect either in form or substance contained in that information.”

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## TREATY OF PEACE (GERMANY).

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No. 39 of 1920.

An Act to amend the *Treaty of Peace Act* 1919.

[Assented to 10th November, 1920.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title and  
citation.

1.—(1.) This Act may be cited as the *Treaty of Peace (Germany) Act* 1920.

(2.) The *Treaty of Peace Act* 1919, as amended by this Act, may be cited as the *Treaty of Peace (Germany) Act* 1919–1920.

Commencement.

2. This Act shall be deemed to have commenced on the day on which the *Treaty of Peace Act* 1919 commenced.

3. After section one of the *Treaty of Peace Act* 1919 the following section is inserted :—

Application of  
Act to  
Territories.

“1A. This Act shall apply to the Territories under the authority of the Commonwealth, including any territory governed by the Commonwealth under a mandate.”

*THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA*

**TRICK OR TREATY?  
COMMONWEALTH POWER TO MAKE AND  
IMPLEMENT TREATIES**

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*Report by the  
Senate Legal and Constitutional References Committee*

*November 1995*

treaties provide for their own dispute resolution measures, such as referral to arbitration.

0.13 Federal countries may ratify a treaty that covers subject matter in relation to which the federal Government is not constitutionally competent to legislate. 'Federal clauses' are sometimes used to overcome the difficulties that may arise in such situations and provide that the federal Government is only bound by the provisions of the treaty that come within its legislative competence.

0.14 International organisations play an important role in international law matters. They are established by treaties and have independent legal personality, meaning that they can enter into treaties in their own right. Two major international organisations are the United Nations and the International Labour Organisation. The fundamental goal of the United Nations is to ensure international peace and security. The purpose of the International Labour Organisation is to establish labour standards.

#### **Chapter 4 - Treaties and the Commonwealth Constitution**

0.15 The power to *enter into* treaties is an *executive* power within s. 61 of the Constitution. This is to be distinguished from the *legislative* power to *implement* treaties in domestic law which is granted in s. 51(xxix) of the Constitution and is known as the external affairs power.

0.16 At Federation in 1901, the Commonwealth Government did not possess the executive power to enter into treaties. This prerogative power remained with the United Kingdom. It is unclear on which particular date Australia became an independent nation capable of entering into treaties on its own behalf. However, it is accepted that Australia became an independent nation some time between World War I and World War II. Further, it seems that the Government was probably able to enter into treaties on its own behalf before it acted on this power.

0.17 The original draft of the Constitution contained two main references to 'treaties'. There has been some suggestion that the removal of these references from the final Constitution evidences an intention on the part of the Framers of the Constitution to exclude from the Parliament the authority to legislate with respect to treaties. However, there is general consensus that this is not the case. High Court cases have confirmed that the external affairs power does include the power to implement treaties.

## The International Labour Organisation

3.53 Membership of the International Labour Organisation (ILO) is open only to nation states which are recognised as such in international law. In practice most members of the United Nations are also members of the ILO.<sup>40</sup>

3.54 The *International Labour Conference* (ILC) meets annually, usually in Geneva. It is composed of representatives of each of the members of the Organisation. Each member nation is entitled to a delegation of four comprising two Government representatives, and one representative each of employers and workers in the country concerned. The employers' and workers' delegates are appointed by governments in consultation with the representative industrial organisations in their respective countries. In Australia, these comprise the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU).

3.55 One of the principal functions of the ILC is the adoption of formal instruments establishing international labour standards. These instruments take the form of Conventions and Recommendations. The ILC has general oversight over the operation of the Organisation, including approval of its budget.<sup>41</sup>

3.56 The *Governing Body* of the ILO is composed of twenty-eight government representatives, 14 workers' representatives and 14 employers' representatives. The Governing Body meets in Geneva three times a year. It is responsible for the planning and direction of the work of the organisation on a day-to-day basis.

3.57 With the exception of two terms (1960-63 and 1969-72), Australia has been a government member of the Governing Body since 1945, and has provided the Chairman of the Governing Body on two occasions, 1975 and 1989. In addition to the Government, both the President of the ACTU and the Executive Director of the ACCI are presently members of the governing Body (1993-95).<sup>42</sup>

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40 This description is based on the submission from the Australian Council of Trade Unions. Submission No. 76, Vol 4, pp 802-803.

41 ACTU, Submission No. 76, Vol 4, pp 802-803.

42 ACTU, Submission No. 76, Vol 4, pp 802-803.

confused with the other constitutional power to legislate to implement treaties under s. 51(xxix) of the Constitution.<sup>4</sup>

4.5 Section 51(xxix) of the Constitution confers on the Commonwealth Parliament the power to legislate with respect to 'external affairs'. This has been interpreted by the High Court to mean that the Commonwealth Parliament may legislate, under s. 51(xxix) of the Constitution, to implement in domestic law a treaty which has been entered into by the Executive pursuant to its power under s. 61 of the Constitution.<sup>5</sup>

#### **The evolution of the executive power to enter into treaties**

4.6 While it is well settled by the High Court that the power to enter into treaties is an Executive power under s. 61 of the Constitution, it is difficult to determine the exact date at which this power transferred from the Imperial Government to the Commonwealth Government. The power, in fact, has evolved as Australia has moved towards nationhood.

4.7 At federation, in 1901, the power to enter into treaties was possessed by the Imperial Crown because the United Kingdom Government remained responsible for the conduct of Australia's foreign relations.

4.8 Even before federation, however, there was some consultation between the Imperial Government and the colonies on the subject of treaties. From the colonial perspective, the most important treaties concerned international trade and shipping. The colonies which had been granted responsible government<sup>6</sup> argued in the 1870s that they should be consulted before the Imperial Government entered into a commercial treaty which bound them, and that they should have powers of their own to negotiate commercial treaties.<sup>7</sup>

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4 Mr M. Goldstiver, Submission No. 50, Vol 2, p 431; Mr M. Goldstiver, Submission No. 104, Vol 6, p 1315; Mr A. Pitt, Submission No. 47, Vol 2, p 423; Mr T. King, Submission No. 53, Vol 3, p 443, Mr J. Pickering, Submission No. 54, Vol 3, p 448.

5 The High Court's interpretation of the external affairs power is discussed in detail in Chapter 5 of this report.

6 That is, those colonies with Parliaments where the Government was formed by the majority in the Lower House, and the members of the Lower House were elected by the people.

7 G. Doeker, *The Treaty-Making Power in the Commonwealth of Australia*, The Hague, Martinus Nijhoff, 1966: pp 26-29.

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capacity.<sup>11</sup> The British Foreign Office rejected this view, on the grounds that both before and after federation, treaties were made in the name of the monarch of Great Britain, and this had not changed. The Secretary of State for Foreign Affairs stated:

A Treaty binding upon an Australian Colony, prior to Federation, was not from an international point of view between the particular colony and the particular foreign country concerned, but between the British Government and that power. The obligation of the Sovereign was in respect of a certain portion of his Dominions, viz. a certain Australian Colony, and that obligation was not based upon the particular character of the government in force in that Colony, nor can it be lessened by the entry of the Colony into a Federation, which is also part of his Dominions.<sup>12</sup>

4.12 During World War I, the significant contributions of the Dominions to the war effort resulted in them being invited to participate in the Imperial War Cabinet and the Imperial War Conference. The Imperial War Conference passed a resolution in 1917 that a subsequent Imperial Conference be convened which would consider the 'readjustment of the constitutional relations of the component parts of the Empire' and base any readjustment on the recognition of the Dominions as 'autonomous nations of an Imperial Commonwealth' with the right to 'an adequate voice in foreign policy and in foreign relations'.<sup>13</sup>

4.13 After the First World War, Australia was separately represented at the Peace Conference, and the Dominions began to exercise greater powers in the area of external affairs. Australia became an independent member of the League of Nations and the International Labour Organisation in 1919.<sup>14</sup> In both these fora, the Dominions were given separate votes and their representatives were accredited by, and responsible to, their own Dominion Governments, rather than the Imperial Government. They did not always vote

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11 Opinion dated 16 January 1902, Attorney-General's Department, *Opinions of the Attorneys-General of the Commonwealth of Australia*, Vol 1, AGPS, Canberra, 1981: p 47.

12 Quoted in: G. Doeker, *The Treaty-Making Power in the Commonwealth of Australia*, The Hague, Martinus Nijhoff, 1966: p 50.

13 G. Doeker, *The Treaty-Making Power in the Commonwealth of Australia*, The Hague, Martinus Nijhoff, 1966: p. 10.

14 For a discussion on the status of the Dominions in signing the Treaty of Versailles and becoming separate members of the League of Nations, see: A.B. Keith, *Responsible Government in the Dominions*, 2nd ed., Clarendon Press, Oxford, 1928: pp. 877-893; and P.J.N. Baker, *The Present Juridical Status of the British Dominions in International Law*, Longmans, Green & Co., 1929: pp. 67-81.



in the same manner as Great Britain.<sup>15</sup> This admission to the League and the International Labour Organisation involved recognition by other countries that Australia was now a sovereign nation with the necessary 'international personality' to enter into international relations.<sup>16</sup>

4.14 At the Imperial Conference in 1923, it was recognised that the different Governments of the Empire had the right to make treaties with foreign powers, subject to a duty to consider any potential effect on other parts of the Empire, and a duty to inform other Empire Governments of their intentions. Bilateral treaties which imposed obligations on one part of the Empire only, could be signed by a representative of that part of the Empire. Treaties negotiated at international conferences were to be signed by representatives on behalf of all the governments of the Empire represented at the Conference.<sup>17</sup>

4.15 The Imperial Conference resolution of 1923 made the following statement about ratification of treaties:

(a) The ratification of treaties imposing obligations on one part of the Empire is effected at the instance of the government of that part;

(b) The ratification of treaties imposing obligations on more than one part of the Empire is effected after consultation between the governments of those parts of the empire concerned. It is for each government to decide whether Parliamentary approval or legislation is required before desire for, or concurrence in, ratification is intimated by that government.<sup>18</sup>

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15 M. Lewis, 'The International Status of the British Self-Governing Dominions' (1922-23) 3 *British Year Book of International Law*, 21 at p. 33.

16 H.V. Evatt, *The Royal Prerogative*, Law Book Co., 1987: p. 151; J.G. Starke, 'The Commonwealth in International Affairs' in R. Else-Mitchell (ed.), *Essays on the Australian Constitution*, 2nd ed., Law Book Co., Sydney, 1961, 343, at 349. See also the statement made by the British Prime Minister, Mr Lloyd George, at the 1921 Conference of Prime Ministers, quoted in R. Stewart, *Treaty Relations of the British Commonwealth of Nations*, MacMillan Co., New York, 1939: pp. 152-3.

17 See copy of the Conference Resolution in: J.G. Latham, *Australia and the British Commonwealth*, MacMillan and Co. Ltd, London, 1929: pp 131-133.

18 J.G. Latham, *Australia and the British Commonwealth*, MacMillan and Co. Ltd, London, 1929: p 133.

# **ANNEXURE 14**

1. Copy of Full Powers documents issued to Australian Plenipotentiaries attending the United Nations Conference in San Francisco in 1945.

W H E R E A S the Government of the Commonwealth of Australia has accepted the invitation issued by the Government of the United States of America on behalf of itself and of the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the Republic of China, to send representatives to the Conference of the United Nations which is now being held at San Francisco to prepare a charter for a general international organization for the maintenance of international peace and security A N D

W H E R E A S it is expedient that fit persons should be invested with Full Power to sign for and on behalf of the Government of the Commonwealth of Australia any agreement or agreements which may be adopted at the said Conference N O W

T H E R E F O R E T H E S E P R E S E N T S C E R T I F Y that the RIGHT HONOURABLE FRANCIS MICHAEL FORDE is duly named constituted and appointed as a Plenipotentiary and Representative having Full Power and Authority to sign for and on behalf of the Government of the Commonwealth of Australia subject if necessary to ratification any agreement or agreements which may be adopted at the United Nations Conference on International Organization.

IN WITNESS WHEREOF I, NORMAN JOHN OSWALD MAKIN, Acting Minister of State for External Affairs have executed these presents.

D A T E D this                      day of June in the year of Our Lord one thousand nine hundred and forty-five.

W H E R E A S the Government of the Commonwealth of Australia has accepted the invitation issued by the Government of the United States of America on behalf of itself and of the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the Republic of China, to send representatives to the Conference of the United Nations which is now being held at San Francisco to prepare a charter for a general international organization for the maintenance of international peace and security A N D

W H E R E A S it is expedient that fit persons should be invested with Full Power to sign for and on behalf of the Government of the Commonwealth of Australia any agreement or agreements which may be adopted at the said Conference N O W T H E R E F O R E

T H E S E P R E S E N T S C E R T I F Y that the RIGHT HONOURABLE HERBERT VERE EVATT, K.C., LL.D. is duly named constituted and appointed as a Plenipotentiary and Representative having Full Power and Authority to sign for and on behalf of the Government of the Commonwealth of Australia subject if necessary to ratification any agreement or agreements which may be adopted at the United Nations Conference on International Organization.

IN WITNESS WHEREOF I, NORMAN JOHN OSWALD MCKIN, Acting Minister of State for External Affairs have executed these presents.

D A T E D this \_\_\_\_\_ day of June in the year of Our Lord one thousand nine hundred and forty-five.

# **ANNEXURE 15**

1. Copy of Charter of the United Nations Act 1945.

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**AUSTRALIA**  
**The concealed colony**

# CHARTER OF THE UNITED NATIONS ACT 1945 - TABLE OF PROVISIONS

## TABLE OF PROVISIONS

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#### THE SCHEDULE

#### CHARTER OF THE UNITED NATIONS

## CHARTER OF THE UNITED NATIONS ACT 1945

\*1\* The Charter of the United Nations Act 1945 comprises Act No. 32, 1945 amended as indicated in the Tables below.

Table of Acts				
Act	Date	Date of of assent year	Application commencement	Number and saving or transitional provisions
Charter of the United Nations Act 1945	32, 1945	24 Sept 1945	22 Oct 1945	
Charter of the United Nations Amendment Act 1993	30, 1993	9 June 1993	9 June 1993	

### Table of Amendments

ad=added or inserted am=amended rep=repealed rs=repealed and substituted

Provision affected	How affected
Title	rs. No. 30, 1993
Preamble	rep. No. 30, 1993
Heading to Part I	ad. No. 30, 1993
S. 3	rs. No. 30, 1993
S. 4	ad. No. 30, 1993
Part 2 (s. 5)	ad. No. 30, 1993
S. 5	ad. No. 30, 1993
Part 3 (ss. 6-13)	ad. No. 30, 1993
Ss. 6-13	ad. No. 30, 1993

## CHARTER OF THE UNITED NATIONS ACT 1945 - LONG TITLE

An Act to approve the Charter of the United Nations, and to enable Australia to apply sanctions giving effect to certain decisions of the Security Council

### PART 1 - PRELIMINARY

#### Short title

1. This Act may be cited as the Charter of the United Nations Act 1945. \*1\*  
SEE NOTES TO FIRST ARTICLE OF THIS CHAPTER.

#### Interpretation

2. In this Act "the Charter of the United Nations" means the instrument so entitled which was signed at the city of San Francisco on the twenty-sixth day of June, One thousand nine hundred and forty-five and which provides for the establishment of an international organization to be known as the United Nations.

#### Extension to

3. This Act extends to every external Territory.

#### Act binds the Crown

4. (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.  
(2) Nothing in this Act renders the Crown in any right liable to be prosecuted for an offence.

### PART 2 - APPROVAL OF CHARTER

#### Approval

5. The Charter of the United Nations (a copy of which is set out in the Schedule) is approved.

### PART 3 - REGULATIONS TO APPLY SECURITY COUNCIL SANCTIONS

#### Division 1 - Making and effect of regulations

##### Regulations may apply sanctions

6. The Governor-General may make regulations for and in relation to giving effect to decisions that:  
(a) the Security Council has made under Chapter VII of the Charter of the United Nations; and  
(b) Article 25 of the Charter requires Australia to carry out; in so far as those decisions require Australia to apply measures not involving the use of armed force.



Note: Articles 39 and 41 of the Charter provide for the Security Council to decide what measures not involving the use of armed force are to be taken to maintain or restore international peace and security.

Regulations may have extra-territorial effect

7. (1) The regulations may be expressed to have extra-territorial effect.
- (2) If they are so expressed, they have effect accordingly, and so does Division 2 of this Part.

Regulations expire when sanctions resolution ceases to bind Australia

8. (1) In so far as the regulations provide for or in relation to giving effect to a particular decision of the Security Council:

(a) they cease to have effect when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision; and

(b) they do not revive, even if Australia again becomes required to carry out the decision.

(2) However, to avoid doubt, nothing in this section prevents the repeal of regulations, or the making of regulations that are the same in substance as regulations that have ceased to have effect because of this section.

Effect of regulations on earlier Commonwealth Acts and on State and Territory laws

9. The regulations have effect despite:

(a) an Act enacted before the commencement of this section; or

(b) an instrument made under such an Act (including such an instrument made at or after that commencement); or

(c) a law of a State or Territory; or

(d) an instrument made under such a law; or

(e) any provision of the Corporations Act 1989 or of the Corporations Law, Corporations Regulations, ASC Law, or ASC Regulations, of the Australian Capital Territory; or

(f) an instrument made under such a provision.

Later Acts not to be interpreted as overriding this Part or the regulations

10. (1) An Act enacted at or after the commencement of this section is not to be interpreted as:

(a) amending or repealing, or otherwise altering the effect or operation of, a provision of this Part or of the regulations; or

(b) authorising the making of an instrument amending or repealing, or otherwise altering the effect or operation of, a provision of this Part or of the regulations.

(2) Subsection (1) does not affect the interpretation of an Act so far as that Act provides expressly for that Act, or for an instrument made under that Act, to have effect despite this Act, despite the regulations, or despite a specified provision of this Act or of the regulations.

Other instruments giving effect to Security Council decisions

11. To avoid doubt, the validity or operation of an instrument made under another Act is not affected merely because the instrument was made in connection with giving effect to a decision of the Security Council.

## DIVISION 2 - Enforcing the regulations

### Offences

12. (1) The regulations may prescribe penalties of not more than 50 penalty units for offences against the regulations.

(2) The limitation on penalties in subsection (1) does not prevent the regulations from requiring someone to make a statutory declaration.

### Injunctions

13. (1) If a person has engaged, is engaging, or proposes to engage, in conduct involving a contravention of the regulations, a superior court may by order grant an injunction restraining the person from engaging in conduct specified in the order.

(2) An injunction may only be granted on application by the Attorney-General.

(3) On an application, the court may, if it thinks it appropriate, grant an injunction by consent of all parties to the proceedings, whether or not the court is satisfied that subsection (1) applies.

(4) A superior court may, if it thinks it desirable, grant an interim injunction pending its determination of an application.

(5) A court is not to require the Attorney-General or anyone else, as a condition of granting an interim injunction, to give an undertaking as to damages.

(6) A court may discharge or vary an injunction it has granted.

(7) The power to grant or vary an injunction restraining a person from engaging in conduct may be exercised:

(a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in such conduct; and

(b) whether or not the person has previously engaged in such conduct.

(8) In this section:

"superior court" means the Federal Court of Australia or the Supreme Court of a State or Territory.

## THE SCHEDULE

### CHARTER OF THE UNITED NATIONS

#### WE THE PEOPLES OF THE UNITED NATIONS

DETERMINED to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom,

#### AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

#### HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

# **ANNEXURE 16**

1. Copy of letter from Office of Attorney - General.
2. Copy of letter from Australian Government Solicitor



Office of  
Attorney-General

27 OCT 1997

20/97087084

Mr Wolter Jousse  
6 Apsley Place  
SEAFORD VIC 3198

Dear Mr Jousse

I refer to your letter to the Queen's private secretary, Sir Robert Fellows, dated 17 July 1997. You have sought information about the constitutional bases of the roles of the Queen and her 'vice-regal' representatives in Australian government. As you would be aware, your letter was forwarded to the Official Secretary to the Governor-General and then to the office of the Attorney-General. I have been asked to reply on the Attorney-General's behalf.

As you state in your letter, Australia is an independent nation and is recognised as such internationally. Nevertheless, the Queen retains a place in Australian government. Section 1 of the Commonwealth Constitution states that the Commonwealth Parliament consists of a House of Representatives, a Senate and the Queen. Under section 2 the Queen is empowered to appoint the Governor-General as her representative. Under section 61 the executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General. The Queen is Australia's head of state.

Despite the terms of the Constitution, the Queen does not play a day to day role in Australian government. Those few functions which the Queen does perform are performed in accordance with advice from the Commonwealth government of the day. It is in practice the Governor-General who performs a broader range of functions, also on the advice of the government. For example, under section 64, the Governor-General appoints ministers and creates departments of state. As mentioned, section 61 provides that the executive power of the Commonwealth is exercisable by the Governor-General.

Returning to the Queen's role, the Constitutional Commission observed in its Final Report of 1988 that the disappearance of the British empire has meant that the Queen is now sovereign of a number of separate countries such as the United Kingdom, Canada, Australia and New Zealand. The Commission pointed out that, as Queen of Australia, the Queen holds an entirely distinct and different position from that which she holds as Queen of the United Kingdom (or any other country). You might be interested to note the Commission's acknowledgment of a statement by a former Chief Justice of the High Court in *Pochi v Macphee* (1982) 151 CLR 101, 109. The former Chief Justice stated that '[t]he allegiance which Australians owe to Her Majesty is owed not as British subjects but as subjects of the Queen of Australia'.

You have asked in particular about the practice of issuing letters patent in relation to the office of 'Governor'. I am advised that letters patent 'constituting' the office of Governor-General of Australia were issued on 29 October 1900 under the great seal of the United Kingdom by Queen Victoria as Queen of the United Kingdom.

Amendments of the letters patent issued in 1900, made on 4 December 1958, were approved by Queen Elizabeth II on the advice of the Australian government. On 24 August 1984 the letters patent issued in 1900 were revoked and new letters patent were issued by Queen Elizabeth II as Queen of Australia under the great seal of Australia, once again on the advice of the Australian government. Other letters patent, since revoked, were issued in 1954 and 1973.

The Constitutional Commission has noted that the letters patent of 29 October 1900 'constituting' the office of Governor-General duplicated a number of the provisions in the Constitution conferring powers on the Governor-General, and also granted some other powers which are now clearly among the powers embraced by section 61 of the Constitution. The Commission has observed that the letters patent of 21 August 1984 eliminated these redundant clauses and at the same time revoked the royal instructions to the Governor-General dated 29 October 1900.

I am advised that the state constitutions also reflect the central role of the Crown as part of the parliament and executive government of each state and that the office and powers of a state Governor are established or continued by either letters patent issued by the monarch or by state constitutional legislation. I am also advised that, under section 7 of the *Australia Act 1986*, the state Governors are appointed by the Queen on the advice of state Premiers.


However, arrangements relating to the appointment of state Governors may vary between states and I am not in a position to provide further information about those arrangements.

You have also asked about the Queen's role in the appointment of judges and of 'Queen's Counsel'. At present, all federal judges are appointed by the Governor-General under subsection 72(i) of the Constitution. Queen's counsel for the Commonwealth have been appointed with the approval of the Governor-General on the recommendation of the Attorney-General by letters patent signed by the Governor-General and counter-signed by the Attorney-General. I am advised that the Governor-General's power to make such appointments derives from section 61 of the Constitution.

Once again, I am unable to provide information about particular state arrangements.

I trust this information is of assistance.

Yours sincerely



Hugh Funder  
Senior Adviser



## Office of Attorney-General

20/97087084

Mr Wolter Joosse  
6 Apsley Place  
SEAFORD VIC 3198

Dear Mr Joosse

I refer to your letter to Mr Funder of this office dated 30 October 1997. Mr Funder wrote to you on 27 October 1997 concerning the constitutional bases of the roles of the Queen and her vice regal representatives in Australian government. However, you still have some concerns about the validity of the Commonwealth Constitution. Mr Funder has asked me to reply to your letter on his behalf.

Your concern continues to stem from the fact that Australia's fundamental law - the Commonwealth Constitution - was originally enacted as part of an Act of the United Kingdom Parliament. As I understand it, you see the continued observance of the Constitution, and the laws made under it, as inconsistent with Australia's status as an independent nation. You ask by what 'authority' the Constitution continues to operate in Australia.

I should begin by pointing out that it was necessary to enact the Constitution as part of an Act of the United Kingdom Parliament because, to that point, Australia had been a collection of self-governing British colonies. Ultimate legal authority over those colonies rested with Britain. Nevertheless, the Constitution was approved by the electors in the Australian colonies before it commenced in 1901.

The new entity created by the Constitution - the Commonwealth of Australia - retained its colonial status for some time after federation. It was accepted that, as a colony (or 'Dominion'), Australia remained subject to some Imperial statutes. However, Australia developed an independent status in international affairs over the course of the century. I am advised that Australia's participation at the Peace Conference following the First World War, and at the Imperial Conferences of 1926 and 1930, marked important steps along the path to attaining a separate international personality.

I am advised that the *Statute of Westminster, 1931* (UK) embodied many of the recommendations of the Imperial Conferences regarding the progress of the Dominions toward full independence. It included provisions affirming the power of the Dominion parliaments to make laws having extra-territorial effect; and providing that no law of the United Kingdom Parliament should extend to a Dominion otherwise than at the request and consent of the Dominion. The relevant provisions of the Imperial Act were adopted in Australia under a Commonwealth (ie, Australian) Act, the *Statute of Westminster Adoption Act 1942*, having retrospective effect from 1939. At least since the passage of the Australia Acts in Australia and the United Kingdom (severing a number of remaining formal links between Australia and the United

Kingdom), the United Kingdom Parliament has had no authority at all in relation to Australian affairs.

However, the fact remains that our system of national government is given its basic structure by the Constitution. That structure has continued largely unchanged since federation. Those changes which have been made have been made by the Australian people at referendum in accordance with section 128 of the Constitution. I am advised that the character of the Constitution as Australia's fundamental law can now be seen to derive from its acceptance by the Australian people, rather than the fact that the Constitution was originally enacted by the United Kingdom Parliament.

The Australian people may, of course, choose to make further changes to the Constitution. One possibility is a republican form of government for the Commonwealth. As you are aware, that possibility will be discussed by delegates at the Constitutional Convention in Canberra in February.

As to the 'authority' for these comments, I am advised that they simply reflect basic and generally accepted constitutional and legal principles. The Attorney-General's Department has indicated that they may be verified in any reasonably comprehensive text book dealing with Australian constitutional law.

I hope you find these comments helpful.

Yours sincerely



Adele Byrne  
Adviser





Office of  
Attorney-General

20/97071622

16 JAN 1998

Mr Peter Batten  
PO Box 1333  
RENMARK SA 5341

Dear Mr Batten

I refer to your letters to the Attorney-General dated 7 November 1997, 12 December 1997 and 18 December 1997 concerning Australia's status as an independent nation. The Attorney-General has asked me to respond to your letters on his behalf.

I refer also to my letter to you on this matter dated 21 October 1997. I am sorry that you did not find that response to be satisfactory. (ANNEXURE 10)

Your concern continues to stem from the fact that Australia's fundamental law - the Commonwealth Constitution - was originally enacted as part of an Act of the United Kingdom Parliament. As I understand it, you see the continued observance of the Constitution, and the laws made under it, as inconsistent with Australia's status as an independent nation. You have also referred to the operation of the *Statute of Westminster, 1931* (UK) and the *Australia Act 1986* (UK).

You say that Australia 'became an independent sovereign nation on the 10th January 1920' and ask by what 'authority' the laws just mentioned continue to have 'validity' in Australia.

As I pointed out in my last letter, it was necessary to enact the Constitution as part of an Act of the United Kingdom Parliament because, to that point, Australia had been a collection of self-governing British colonies. Ultimate legal authority over those colonies rested with Britain. Nevertheless, the Constitution was approved by the electors in the Australian colonies before it commenced in 1901.

The new entity created by the Constitution - the Commonwealth of Australia - retained its colonial status for some time after federation. It was accepted that, as a colony (or 'Dominion'), Australia remained subject to some Imperial statutes. However, Australia developed an independent status in international affairs over the course of this century. I am advised that Australia's participation at the Peace Conference following the First World War, and at the Imperial Conferences of 1926 and 1930, marked important steps along the path to attaining a separate international personality.

So far as the *Statute of Westminster, 1931* (UK) is concerned, I am advised that it embodied many of the recommendations of the Imperial Conferences regarding the progress of the Dominions toward full independence. It included provisions affirming the power of Dominion parliaments to make laws having extra-territorial effect; and

providing that no law of the United Kingdom Parliament should extend to a Dominion otherwise than at the request and consent of the Dominion. The relevant provisions of the Imperial Act were adopted in Australia under a Commonwealth (ie, Australian) Act, the *Statute of Westminster Adoption Act 1942*, having retrospective effect from 1939. At least since the passage of the Australia Acts in Australia and the United Kingdom, the United Kingdom Parliament has had no authority at all in relation to Australian affairs.

However, the fact remains that our system of national government is given its basic structure by the Constitution. That structure has continued largely unchanged since federation. Those changes which have been made have been made by the Australian people at referendum in accordance with section 128 of the Constitution. As I indicated in my earlier letter, the character of the Constitution as Australia's fundamental law can now be seen to derive from its acceptance by the Australian people, rather than the fact that the Constitution was originally enacted by the United Kingdom Parliament.


The Australian people may, of course, choose to make further changes to the Constitution. One possibility is a republican form of government for the Commonwealth. As you are aware, that possibility will be discussed by delegates at the Constitutional Convention in Canberra in February.

As to the 'authority' for these comments, I am advised that they simply reflect basic and generally accepted constitutional and legal principles. The Attorney-General's Department has indicated that they may be verified in any reasonably comprehensive text book dealing with Australian constitutional law.

I have enclosed a copy of an essay written by Professor Zines (and included in a collection of essays entitled *Commentaries on the Australian Constitution*) that may be of interest. The essay was published in 1977 and therefore does not deal with the effect of the Australia Acts. Nevertheless, it includes relevant discussion (particularly sections 5 and 6) about the growth of Australian nationhood in the earlier part of this century.

I hope you find these comments helpful.

Yours sincerely

  
Adele Byrne  
Adviser



97106621/M175897/176122

22 Januar / 1998

Mr Paul A. Johnson  
Lot 2 Princes Highway  
WOLUMBA NSW 2550

Dear Mr Johnson

### SOURCES OF AUSTRALIAN LAW

Thank you for your letter to the Attorney-General dated 11 November 1997 regarding the bases of Australian law. Your letter to the Governor-General on the same matter has also been forwarded to the office of the Attorney-General. The Attorney-General has asked me to respond to your letters on his behalf.

In your letters you have identified a number of significant steps on Australia's path towards national independence. Your concern relates to the formal basis of Australian law since Australia attained that independence. You have noted that the *Commonwealth of Australia Constitution Act 1900* (UK) - which contains the Commonwealth Constitution - is an Act of the British parliament. You have also noted that, at least since the passage of the Australia Acts in 1985, the British parliament can no longer legislate for Australia. On that basis, you have asked 'what document(s) provide for the basis of law in Australia'.

It has been said that when the first fleet arrived at Sydney Cove in January 1788 and formed the new colony of New South Wales it brought the English system of law with it. Certainly, a great deal of British common law and statute law was 'received' by the colonies at the time of settlement. That law has been changed and developed in many respects by Australian courts and legislatures. Those changes began well before the Commonwealth Constitution commenced and the Commonwealth of Australia was created in 1901. There are now various State Acts (eg, the *Imperial Acts Application Act 1969* (NSW)) dealing with the application of received laws in the States.

As you would be aware, it was necessary to enact the Constitution as part of a British Act of parliament because, before 1900, Australia was a collection of self-governing British colonies. Ultimate power over those colonies rested with the British parliament. Nevertheless, the 'federation' movement began in the colonies and the terms of the Constitution had been approved by the people of the colonies by the time it came into effect.

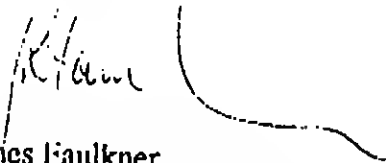
Since Australia has attained its independent status, the character of the Constitution as Australia's fundamental law can be seen as resting predominantly on the Australian people's decision to approve and be bound by its terms, and not on the status of the Constitution as an Act of the British parliament. What has been described as 'the sovereignty of the Australian people' is recognised by section 128 of the Constitution, which provides that any change to the Constitution must be approved by the people of Australia.

Office of General Counsel

Robert Carr: Offices, National Circuit, Barton ACT 2600 • Tel (02) 6270 5555 • DX 5678 • Fax (02) 6250 5015  
OFFICES IN CANBERRA, SYDNEY, MELBOURNE, BRISBANE, PERTH, ADELAIDE, HOBART, DARWIN, TOWNSVILLE

I hope these comments are of assistance.

Yours sincerely



James Faulkner  
A/g Senior General Counsel

22 January 1998  
Sources of Australian law  
2



ATTORNEY  
GENERAL'S  
DEPARTMENT

Office of Legal Services Coordination

190349/191681

24 June 1999

Ms/Mr J P Anderson  
Suite 346  
131 Old Cleveland Road  
Capalaba 4157

Dear Ms/Mr Anderson

I refer to your letter dated 19 April 1999 addressed to the Governor General. As you are aware from a letter to you from the Acting Official Secretary to the Governor-General on 29 April 1999, your letter was passed in May to the Attorney-General for reply direct. The Attorney has asked me to reply on his behalf.

On 16 June a further votergram in precisely the same terms addressed to the Hon. Philip Ruddock MP, Minister for Immigration and Multicultural Affairs, was also passed to the Attorney for reply as it related to his portfolio responsibilities. Please regard this letter as a reply also to your votergram to Mr Ruddock.

In your letters to the Governor-General and Mr Ruddock you express the view that Australian and State governments do not have authority to impose British law upon Australian citizens or, say, a GST.

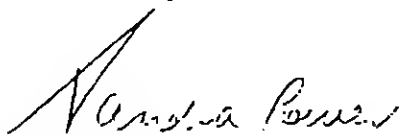
The Constitution of the Commonwealth of Australia is Australia's fundamental law. It is contained in section 9 of the Commonwealth of Australia Constitution Act, which was enacted by the United Kingdom Parliament.

The *Australia Act 1986* of the Commonwealth, and the *Australia Act 1986* of the United Kingdom, brought the constitutional arrangements governing the Commonwealth and the States into conformity with the status of Australia as a sovereign, independent and federal nation. Section 1 of the *Australia Act* precludes any Act of the United Kingdom Parliament passed after the commencement of the *Australia Act* from extending to Australia.

I mention for your information that in a case in late 1998, *Joosse v Australian Securities and Investment Commission* [1998] HCA 77, the High Court considered, and rejected, arguments to the effect that some kind of break in Australia's sovereignty occurred over the course of the twentieth century, with the results that the Constitution ceased to be fundamental law and that legislation passed by Australian legislatures was invalid.

In its decision on 23 June 1999 in the *Sue v Hill* and *Sharples v Hill* litigation, the High Court also upheld the status of Australia as a sovereign and independent nation, having a binding Constitution.

Yours sincerely



Sandra Power  
A/g Assistant Secretary  
Constitutional Policy Unit



Office of  
Attorney-General

191513

- 6 JUL 1999

Mr R G McCulloch  
C/ - M & A Camilleri  
M/S 895 Sugar Shed Road  
MACKAY Qld 470

Dear Mr McCulloch

I refer to your letter dated 19 May 1999 to the Attorney-General, the Hon. Daryl Williams AM QC MP, enclosing a document with the heading 'Question to the Federal Parliament', regarding the validity of Australian law. The Attorney-General has asked me to reply to you on his behalf.

The paper enclosed with your letter asserts that Australia became an independent nation when it became a member of the League of Nations and that this invalidated legislation in force in Australia, including the Commonwealth Constitution. On the assumption this assertion is correct, you then ask what documents form the basis of law in Australia after that event.

The view outlined in the document is misconceived. The Constitution remains the fundamental law of Australia, and laws made in accordance with it are valid. The constitution is contained in section 9 of the Commonwealth of Australia Constitution Act, which was enacted by the United Kingdom Parliament.

The *Australia Act 1986* of the Commonwealth, and the *Australia Act 1986* of the United Kingdom, brought the constitutional arrangements governing the Commonwealth and the States into conformity with the status of Australia as a sovereign, independent and federal nation. The United Kingdom Parliament enacted its *Australia Act* at the request, and with the consent, of the Commonwealth Parliament and the concurrence of all State Parliaments. Section 1 of both Acts acknowledge the complete legislative independence of the Commonwealth and the States and terminate the power of the United Kingdom Parliament to legislate for any part of Australia.

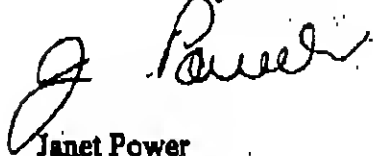
Australia's development into an independent nation did not terminate existing laws in force in Australia, nor did it render subsequent laws invalid. This is demonstrated by the High Court's recent decision in *Joosse v Australia Securities and Investments Commission* [1998] HCA 77. In this case, the High Court considered, and rejected, arguments to the effect that some kind of break in Australia's sovereignty occurred over the course of this century, with the results that the Constitution ceased to be fundamental law and that legislation passed by Australian legislatures was invalid. This case is reported in volume 159 of the *Australian Law Reports*, p.260 ff. More recently still, in *Sue v Hill* [1999] HCA 30 a decision given by the High Court on 23 June 1999, the High Court described the development of Australia as an independent and sovereign nation under the Constitution and the Crown.

An assent copy of the Commonwealth of Australia Constitution Act (a copy signed by Queen Victoria) is kept in Parliament House, Canberra, and is generally on public

display there. Copies of the Constitution are available at many public libraries and book stores.

I hope this information is of assistance to you.

Yours sincerely



Janet Power  
Adviser

Attention      Wayne Levick  
and      Sam Lawrence.

Good Morning gentlemen.

I am faxing this letter to you as I think you will find it interesting. I am considering sending a copy back for the Hon Daryl Williams to sign personally.

I would like to hear your opinions.

All the best  
A. G. M. Puller  
Ph. 0418776927



# **ANNEXURE 17**

1. Copy of UN Resolution 2131 of 1965.
2. Copy of UN Resolution 2625 of 1970.

YEARBOOK  
OF THE  
UNITED  
NATIONS



1965

*OFFICE OF PUBLIC INFORMATION  
UNITED NATIONS, NEW YORK*

~~A/C.1/L.352. Pakistan: amendments to USSR draft declaration, A/C.1/L.343/Rev.1.~~

~~A/C.1/L.353 and Add.1. United Arab Republic and United Republic of Tanzania: draft declaration.~~

~~A/C.1/L.353/Rev.1. Iraq, United Arab Republic and United Republic of Tanzania: revised draft declaration.~~

~~A/C.1/L.353/Rev.2. Algeria, Burma, Iraq, India, Kenya, Kuwait, Lebanon, Libya, Mauritania, Nigeria, Syria, United Arab Republic, United Republic of Tanzania, Yugoslavia: revised draft declaration.~~

~~A/C.1/L.353/Rev.3 and Add.1. Algeria, Burma, Burundi, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Mali, Mauritania, Nigeria, Rwanda, Syria, Togo, Uganda, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia: revised draft declaration.~~

~~A/C.1/L.353/Rev.4 and Add.1. Algeria, Burma, Burundi, Cameroon, Cyprus, India, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Mali, Mauritania, Nigeria, Rwanda, Saudi Arabia, Sudan, Syria, Togo, Uganda, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Zambia: revised draft declaration.~~

~~A/C.1/L.354. India: amendments to 18-cov. draft resolution, A/C.1/L.349/Rev.1.~~

~~A/C.1/L.36+ and Add.1. Afghanistan, Algeria, Argentina, Bolivia, Brazil, Burma, Burundi, Cameroon, Chile, Colombia, Congo, Cuba, Democratic Republic of Congo, Costa Rica, Cyprus, Dahomey, Ecuador, El Salvador, Ethiopia, Gabon, Guinea, Guatemala, Haiti, Honduras, India, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Mali, Mauritania, Mexico, Nicaragua, Niger, Nigeria, Panama, Paraguay, Peru, Rwanda, Saudi Arabia, Sierra Leone, Somalia, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia: draft declaration, approved by First Committee on 20 December 1965, meeting 1422, by roll-call vote of 100 to 0, with 5 abstentions, as follows:~~

~~*In favour:* Afghanistan, Algeria, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian SSR, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Democratic Republic of the Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kuwait, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR,~~

~~USSR, United Arab Republic, United Republic of Tanzania, United States, Upper Volta, Venezuela, Yugoslavia, Zambia.~~

~~*Against:* None.~~

~~*Abstaining:* Australia, Belgium, Netherlands, New Zealand, United Kingdom.~~

~~A/6220. Report of First Committee.~~

~~RESOLUTION 2131 (XX), as proposed by First Committee, A/6220, adopted by Assembly on 21 December 1965, meeting 1408, by roll-call vote of 109 to 0, with 1 abstention, as follows:~~

~~*In favour:* Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian SSR, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Democratic Republic of the Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Maldive Islands, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR, USSR, United Arab Republic, United Republic of Tanzania, United States, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.~~

~~*Against:* None.~~

~~*Abstaining:* United Kingdom.~~

~~*"The General Assembly,*~~

~~*"Deeply concerned at the gravity of the international situation and the increasing threat to universal peace due to armed intervention and other direct or indirect forms of interference threatening the sovereign personality and the political independence of States,*~~

~~*"Considering that the United Nations, in accordance with their aim to eliminate war, threats to the peace and acts of aggression, created an Organization, based on the sovereign equality of States, whose friendly relations would be based on respect for the principle of equal rights and self-determination of peoples and on the obligation of its Members to refrain from the threat or use of force against the territorial integrity or political independence of any State.*~~

~~*"Recognizing that, in fulfilment of the principle of self-determination, the General Assembly, in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in resolution 1514 (XV) of 14 December 1960, stated its conviction that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory, and that, by virtue of that right, they freely determine their political*~~

status and freely pursue their economic, social and cultural development,

"*Recalling* that in the Universal Declaration of Human Rights the General Assembly proclaimed that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, without distinction of any kind,

"*Reaffirming* the principle of non-intervention, proclaimed in the charters of the Organization of American States, the League of Arab States and the Organization of African Unity and affirmed at the conferences held at Montevideo, Buenos Aires, Chapultepec and Bogorá, as well as in the decisions of the Asian-African Conference at Bandung, the First Conference of Heads of State or Government of Non-Aligned Countries at Belgrade, in the Programme for Peace and International Co-operation adopted at the end of the Second Conference of Heads of State or Government of Non-Aligned Countries at Cairo, and in the declaration on subversion adopted at Accra by the Heads of State and Government of the African States,

"*Recognizing* that full observance of the principle of the non-intervention of States in the internal and external affairs of other States is essential to the fulfilment of the purposes and principles of the United Nations,

"*Considering* that armed intervention is synonymous with aggression and, as such, is contrary to the basic principles on which peaceful international co-operation between States should be built,

"*Considering further* that direct intervention, subversion and all forms of indirect intervention are contrary to these principles and, consequently, constitute a violation of the Charter of the United Nations,

"*Mindful* that violation of the principle of non-intervention poses a threat to the independence, freedom and normal political, economic, social and cultural development of countries, particularly those which have freed themselves from colonialism, and can pose a serious threat to the maintenance of peace,

"*Fully aware* of the imperative need to create appropriate conditions which would enable all States, and in particular the developing countries, to choose without duress or coercion their own political, economic and social institutions,

"*In the light of the foregoing considerations,*

*solemnly declares:*

"1. No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned.

"2. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no State shall organize, instigate, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

"3. The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

"4. The strict observance of these obligations is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter of the United Nations but also leads to the creation of situations which threaten international peace and security.

"5. Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

"6. All States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure, and with absolute respect for human rights and fundamental freedoms. Consequently, all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations.

"7. For the purpose of the present Declaration, the term 'State' covers both individual States and groups of States.

"8. Nothing in this Declaration shall be construed as affecting in any manner the relevant provisions of the Charter of the United Nations relating to the maintenance of international peace and security, in particular those contained in Chapters VI, VII and VIII."

## CHAPTER VII

### REGIONAL ACTION TO IMPROVE RELATIONS BETWEEN EUROPEAN STATES WITH DIFFERENT SOCIAL AND POLITICAL SYSTEMS

The question of "Actions on the regional level with a view to improving good neighbourly relations among European States having different social and political systems" was first

placed on the agenda of the General Assembly in 1963 at its eighteenth session. This was done at the request of Romania.

On that occasion, the Assembly decided, in

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## ANNEX

DECLARATION ON PRINCIPLES OF INTERNATIONAL  
LAW CONCERNING FRIENDLY RELATIONS AND  
CO-OPERATION AMONG STATES IN ACCORDANCE  
WITH THE CHARTER OF THE UNITED NATIONS

## PREAMBLE

*The General Assembly,*

*Reaffirming* in the terms of the Charter of the United Nations that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

*Recalling* that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

*Bearing in mind* the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development.

*Bearing in mind also* the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

*Considering* that the faithful observance of the principles of international law concerning friendly relations and co-operation among States and the fulfilment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

*Noting* that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

*Recalling* the established principle that outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

*Convinced* that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

*Recalling* the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

*Considering* it essential that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

*Considering* it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

*Reaffirming*, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

*Convinced* that the subjection of peoples to alien subjugation, domination and exploitative practices a major obstacle to the promotion of international peace and security,

*Convinced* that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

*Convinced* in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

*Considering* the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

*Considering* that the progressive development and codification of the following principles:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered,

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter,

(d) The duty of States to co-operate with one another in accordance with the Charter,

(e) The principle of equal rights and self-determination of peoples,

(f) The principle of sovereign equality of States,

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter,

so as to secure their more effective application within the international community, would promote the realization of the purposes of the United Nations,

*Having considered* the principles of international law relating to friendly relations and co-operation among States,

1. *Solemnly proclaims* the following principles:

*The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations*

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special régime or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal.

Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

*The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered*

Every State shall settle its international disputes with other States by peaceful means in such a manner that international peace and security and justice are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality.

Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in particular those relating to the pacific settlement of international disputes.

*The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter*

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

\* No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

*The duty of States to co-operate with one another in accordance with the Charter*

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of peoples and international co-operation free from discrimination based on such differences.

To this end:

1) States shall co-operate with other States in the maintenance of international peace and security;

2) States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

3) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;

4) States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the promotion of economic growth throughout

the world, especially that of the developing countries.

*The principle of equal rights and self-determination of peoples*

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

(a) To promote friendly relations and co-operation among States; and

(b) To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned;

and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

The territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compli-



ance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

*The principle of sovereign equality of States*

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

- (a) States are juridically equal;
- (b) Each State enjoys the rights inherent in full sovereignty;
- (c) Each State has the duty to respect the personality of other States;
- (d) The territorial integrity and political independence of the State are inviolable;
- (e) Each State has the right freely to choose and develop its political, social, economic and cultural systems;
- (f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

*The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter*

Every State has the duty to fulfil in good faith the

obligations assumed by it in accordance with the Charter of the United Nations.

Every State has the duty to fulfil in good faith its obligations under the generally recognized principles and rules of international law.

Every State has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognized principles and rules of international law.

Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations the obligations under the Charter shall prevail.

GENERAL PART

2. *Declares that:*

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.

Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of Member States under the Charter or the rights of peoples under the Charter, taking into account the elaboration of these rights in this Declaration.

3. *Declares further that:*

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

CHAPTER III

THE QUESTION OF DEFINING AGGRESSION

*CONSIDERATION BY  
SPECIAL COMMITTEE*

In accordance with a General Assembly decision of 12 December 1969,<sup>1</sup> the Special Committee on the Question of Defining Aggression continued its work in 1970.

Meeting at Geneva, Switzerland, from 13 July to 14 August 1970, the Special Committee discussed the three draft proposals which had been submitted to it at its 1969 session, namely: (1) a USSR proposal; (2) a 13-power proposal (Colombia, Cyprus, Ecuador, Ghana, Guyana, Haiti, Iran, Madagascar, Mexico, Spain, Uganda, Uruguay and Yugoslavia); and (3) a six-power proposal (Australia, Canada, Italy, Japan, the United Kingdom and the United States).<sup>2</sup>

After a general discussion of the three proposals, the Special Committee decided to consider them paragraph by paragraph according to the concepts on which they were based.

The main points considered by the Special Committee were the following:

- (1) Application of the definition of aggression:
  - (a) the definition and the power of the Security Council; (b) political entities to which the definition should apply.
- (2) Acts proposed for inclusion in the definition:
  - (a) the question of "direct or indirect" aggression;

<sup>1</sup> See Y.U.N., 1969, p. 774, text of resolution 2549(XXIV).

<sup>2</sup> *Ibid.*, pp. 768-71, for information on the draft proposals.