

EXPLANATORY STATEMENT

I am a former member of the High Court and I wish to take this unusual method of informing you about a matter that is going to deeply affect us all. Unfortunately, a document such as this is too easily "lost" in the bureaucratic jungle in which we operate.

A group of Australian Citizens have taken it upon themselves to test the validity of our current political and judicial system. Like you, I have lived my entire legal career with the assumption that the basis for our legal and political system, state and federal, was written in stone. This group has undertaken to present this paper when they test the legal system.

The group is articulate, well educated and counts some of our best legal minds amongst its members. One of Australia's best known barristers is one of the group's leading lights. It is far better informed with regard to international law than most members of the judiciary or for that matter, the legal academe. It has better international contacts than I would have thought possible.

After spending some time with the group leader, I was able to elicit its primary intentions. It is the introduction of a totally democratic system of government devoid of party politics operated by the will of the people incorporating a system of debit taxation which should go a long way to eliminating the current unemployment problem and also addressing other pressing social issues. An A.B.S. financial model supports the proposal.

The group has so far concentrated on matters relating to taxation, state and federal, minor industrial and motor traffic while undertaking not to present a criminal defence using their current presentation. I challenged the leader of this group to present any evidence he had with regard to the above defence so I could use my legal expertise to play the part of the devil's advocate. It should be brought to your attention that the group has access to documentation that we members of the judiciary have little knowledge. I refer to the British Parliamentary Papers for the Colony of Australia for the years 1860 through to 1922.

These are photocopies of all documents correspondence etc., between the states and later the Commonwealth of Australia, the British Crown and the British Government. They are very revealing documents and indicate the degree of chicanery in which the politicians of all shades were involved and as I can now see, at the expense of the legal academe and the judiciary. I present for your perusal the details of the group's presentation along with my comment on each major item. The group relies solely upon historical fact and rejects political rhetoric and legal opinion unless based upon historical fact.

1. "The Commonwealth of Australia Constitution Act 1900 (UK) is an act of the parliament of the United Kingdom. It did not contain any substance of sovereignty and was a colonial act centralising self-government of the six Australian Colonies. Australia remained a colony of the United Kingdom."

1a. Although the late Lionel Murphy attempted to show that there was an element of sovereignty in this act he failed. The international definition of sovereignty has been espoused at length and the above act although important in the development of Australia, did not have the authority of sovereignty. The historical evidence that Australia remained a British Colony post 1901 is overwhelming.

2. "Australia made an international declaration of its intention to become a sovereign nation when Prime Minister Hughes and his deputy, Sir Joseph Cook signed the Treaty of Versailles on June 28, 1919. On its cognisance of signing this treaty, Australia was granted a "C" class League of Nations mandate over former German territories in the Pacific. In effect, Papua New Guinea became a colony of Australia achieving its own independence on 16 September 1975. The League of Nations became part of International Law on 10 January 1920 with Article X of the Covenant of League of Nations guaranteeing the sovereignty of each member,"

2A. The Significance of Australia joining the League of Nations as a foundation member has never been addressed in Australia before. Strangely, only one book has ever examined the question of Australian independence. Written by W. J. Hudson and M. P. Sharp in 1988 "Australian Independence" printed by Melbourne University Press. As both were members of the Department of Foreign Affairs and Trade at the time of authorship and had access to the, British Parliamentary Papers, I find it most interesting they have avoided any mention of these papers in their book. Their conclusion that Australia became an independent nation via. the Statute of Westminster in 1931 flies in the face of contradictory evidence within the above mentioned papers and readily available historical fact.

Prime Minister Hughes address to the Commonwealth Parliament on 10 September 1919, "Australia has now entered into a family of nations on a footing of equality. Australia has been born in a blood sacrifice." demonstrates the politicians of the day were only too well aware of the change of status from a colony to that of sovereign nation while attempting to remain within the Empire.

Prime Minister Bruce made this reply to the British Government in 1922 after a request for troops against Kernel Ataturk in the Chanak crisis. Bruce's reply is contained in the British Parliamentary Papers: "We have to try to ensure there shall be an Empire foreign policy which if we are to be in anyway responsible for it, must be one to which we agree and have assented. If we are to take any responsibility for the Empire's foreign policy, there must be a better system, so that we may be consulted and have a better opportunity to express the views of the people of this country. We cannot blindly submit to any policy which may involve us in war." This is a far cry from the declaration of war against Germany made on behalf of the British Colony of Australia by George V of the United Kingdom in 1914.

I have re-produced Bruce's reply in full as I believe this reply contains clear historical evidence of a Prime Minister who was well aware of the change of status from a. colony to a sovereign nation. The later Statute of Westminster 1931 was an acknowledgment of that status.

3. "Paragraph 4 of the Statue of Westminster Act 1931 contravenes Article X of the Covenant of the League of Nations. Paragraph 1 of the Australia Act 1986 contravenes Article 2 paragraphs 1 and 4 of the Charter of the United Nations."

3A Paragraph 4 of the Statute of Westminster reads "No Act of Parliament of the United. Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that Dominion, has requested, and consented to the enactment thereof." Paragraph 1 of the Australia Act is very similar: "No Act of the Parliament of the United Kingdom passed after the commencement of this

Act shall extend, or be deemed to extend, to the Commonwealth, to a State or Territory as part of the law of the Commonwealth, of the State or of the Territory."

I passed this one to the Federal Attorney General and asked him what was the source of this quite incredible authority that sought to overturn the authority legislated within the Covenant of the League of Nations in Article X and the Charter of the United Nations in Article 2 paragraphs 1 and 4. He is unable to provide any documentation to support these clauses, Article X of the Covenant of the League of Nations states: "The members of the League undertake to respect and preserve against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled."

It is appropriate that I now introduce a statement by 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 virtually all nations at that time. He refers to Article 1 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.

Article 2 paragraph 1 of the United Nations Charter states "The Organisation is based on the principle of the sovereign equality of all its Members."

Article 2 paragraph 4 of the Charter states '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."

In view of the above, the historical evidence for Australian Independence by 10 January 1920 when the League of Nations became part of International Law is overwhelming. When this evidence is reinforced with the contents of the Charter of the United Nations, the continued usage of any legislation that owes its very legitimacy to the parliament of an acknowledged foreign power cannot be supported by either legal opinion or indeed historical evidence.

I therefore have come to the conclusion that the current legal and political system in use in Australia and its States and Territories has no basis in law.

Following discussions with members of the British Government relating to the Letters Patent for the Governor General and State Governors I find that these documents no longer have any authority. Indeed, the Queen of the United Kingdom is excluded from any position of power in Australia by the United Nations Charter and is excluded under UK law from the issue of a Letters Patent to other than a British Subject. A Letters Patent must refer to an action to be taken with regard to British Citizens. The Immigration Act. 1972 UK defines Australian Citizen as aliens.

The Governor General's Letters Patent is a comedy of errors. We are greeted in the name of the Queen of Australia who suddenly becomes the Queen of the United Kingdom in the next paragraph

of the Letters Patent. This Queen the gives instructions to the Governor General with reference to the Commonwealth of Australia Constitution Act 1900 UK. Here we have a clear breach of Article 2 paragraph 1 of the United Nation Charter. Under both UK and international law, the-Queen is a British Citizen.

State Governors are in a worse position as their authority comes from the late Queen Victoria of the United Kingdom. Regardless of the validity of the Commonwealth of Australia Constitution Act 1900 UK, if the authority of Governor General and the State Governors is invalid then so is the entire political and legal system of government.

When advised that the War Crimes Commission was taking an interest, I called them in Geneva. Under the 1947 Geneva Convention, they are empowered to look into cases here in Australia where it is alleged the law of a foreign country was enforced against a citizen of a member state of the United Nations. As they perceive that only the judiciary can actually enforce the law, the judiciary becomes their target. The group has already placed cases before them which they are currently investigating. If found guilty, the penalties are horrific and include the death penalty!

I could go on with more relevant information however I think now is the time for a summary. The group leader, a QC, states the obvious when he asked me how could a colony now acknowledged by all world nations to be a sovereign Nation retain exactly the same legal and political system it enjoyed as a colony without any change whatsoever to the basis for law. This point alone requires an answer.

The High Court has already answered with regard to the position held by treaties signed by the Commonwealth Government in the Teoh case of 1994. "Ordinary people have the right to expect government officials to consider Australia's international obligations even if those obligations are not reflected in specific Acts of Parliament: the rights recognised in international treaties are an implied limit on executive processes."

My advice is to adjourn any case "sine die" that challenges the authority of the Letters Patent. Under no circumstances hear a case that challenges the validity of a State or the Federal Constitution. It is the politicians who are using us as pawns without them having to face the music. These matters are of concern to politicians, let them sort out these problems and accept any inherent risks themselves!

Article 36 of the Statute of the International Court of Justice is the correct reference for you to refuse to hear a matter when an international treaty is cited as a defence.