



**Attention:**

Chief Justice of the High Court of Australia  
Attorney General of the Australian Government.

**RE:** Oaths of Allegiance under the Commonwealth of Australia Constitution.

**Does “Australia” have a lawful government?**

To learn that to become a Member of the Federal Parliament of the Commonwealth of Australia is to commit an act of treason against the sovereign people of Australia will no doubt result in a reaction of incredulity. In fact it would be reasonable to anticipate that the reader of such a statement would be inclined to immediately reject this paper without further examination of its content.

Similarly, the bold assertion that the Commonwealth of Australia Constitution Act 1900 (Imp) is invalid at first appears ludicrous. As the fundamental law of the Australian Nation, if it were invalid, then all Australian Governments - Commonwealth, State and Territorial - have no legal basis for their continued existence, no valid authority to pass and enforce legislation, and no authority to enter contracts or bind the Australian people by Treaty.

The consequences could be catastrophic, both within Australia and internationally. Yet, the consequences should not influence a disinterested analysis of the basis of that situation. This paper in part, presents these bases.

The fundamental facts which give rise to the accuracy of the above statements are indeed simple and were succinctly stated a few years ago by the late Professor G. Clements (an eminent UK QC and emeritus Professor in law at Cambridge). He summed up the situation thus - "The continued usage of the Australian Constitution Act (UK) by the Australian Governments and the judiciary is a confidence trick of monstrous proportions played upon the Australian people with the intent of maintaining power. It remains an Act of the United Kingdom. After joining the League of Nations in 1919 Australia became a sovereign nation. It had no further legal power to use, alter or otherwise tamper with another nation's legislation. Authority over the Australian Constitution Act lies not with the Australian government nor with the Australian people, it rests solely with the UK. Only they have the authority to repeal this legislation ...".

Differing legal opinion cites the establishment of Australia as an independent sovereign nation over a wide range of dates. These include, but are not limited to -1901 with the proclamation of the Commonwealth of Australia Act (Imp), 1919 with the signing of and unanimous vote by the Federal Parliament of the Commonwealth of Australia in acceptance of the Treaty of Versailles. 1926 by the declaration of the Inter-Imperial Relations Committee of the Imperial Conference, 1929 by the Balfour Declaration, 1939 by the Federal Parliament of the Commonwealth of Australia enacting the Statute of Westminster Adoption Act 1942 (Cth) back-dated to 1939, 1945 by the Commonwealth of Australia becoming a foundation member of the United Nations

and subsequently enacting the Charter of the United Nations Act 1945, 1986 with the passing of the Australia Acts (both UK & Cth.).

Alternatively, the less controversial but flawed gradual evolution during the 20th century explanation. Whichever date is chosen does not alter the consequences of the breach of Sovereignty, for Prof. O'Connell states: "Whatever form the change in sovereignty may take it involves a disruption of the legal continuity... These rules form a body of doctrine known as the law of state succession..." (International Law, P. D. O'Connell, Vol. 1, 2nd ed. 1970, p. 365-368).

However, contrary to much of domestic Australian legal opinion, Australia became an independent sovereign nation following Mr. William Morris Hughes, Prime Minister and Commonwealth Attorney-General, together with Sir Joseph Cook, signing the multi-lateral Treaty of Peace at Versailles, France in June 1919. This included the Covenant of the League of Nations, along with many other important documents in International Law. Particular attention should be paid to clauses I, X, XVIII, and XX of the Covenant. In "An Act to Constitute the Commonwealth of Australia", the 9th clause of which is usually referred to as the 'Australian Constitution' was, is, and remains conditional upon the first 8 covering clauses of that Act, a current Act of domestic law of the United Kingdom Parliament. Under Section 128 of Clause 9, minor alterations to the Constitution may be made by the Australian people. However, the Australian people may not alter, in any way, Clauses 1 to 8 of the Imperial Act. Since the Australian people have only ever had the right to change sections 1 to 128 of clause 9 of that Act, it follows that covering clauses 1 to 8 remain law in Australia.

The Commonwealth of Australia Constitution Act passed through the UK Parliament in June 1900, to commence as law in Australia on the 1st of January 1901. Since the people of Australia have only ever had the right to change Sections 1 to 128 of Clause 9 of this Act, it follows that covering clauses 2, 6 and 8 remain law in Australia. (See *Joosse v ASIC* HCA 1998 159 ALR 260). This means that British colonial law still operates in Australia and that Australia is a self-governing colony of the United Kingdom as stated in that Act. However, the High Court of Australia has recently ruled that the United Kingdom is a foreign power, and that the UK Parliament cannot have any effect on the Governments of Australia (*Sue v Hill* HCA 30 of 1999). Hence, if British colonial law continues to operate in Australia, then this constitutes a clear breach of international law, along with the duties and responsibilities of the Australian and the United Kingdom governments, as both were Foundation Members to the League of Nations, and the United Nations. The Covenant and the Charter of both bodies, respectively, bind these nations.

The Australian people do not have ultimate control over the 'Australian' Constitution. In mid-July 1995 the Lord Chancellor of the UK in answer to a Parliamentary question asked in the UK Parliament about the Australian Constitution, stated - "The British Constitution Act 1900 was for self-government. It was never intended to be and is not suitable to be the basis for independence. The right to repeal this Act remains the sole prerogative 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 precludes any such action" (this response was confirmed by letter from the UK Foreign and Commonwealth Office, dated 11th Dec 1997, under the hand of Mark Armstrong, Far Eastern and Pacific Dept).

"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 has a better right to be represented than Australia," (William Morris Hughes, Prime Minister of Australia, House of Representatives, Commonwealth Parliament of Australia, 10th September, 1919). During the 'Great War', the

United Kingdom held Imperial War Conferences, to which the Dominions were finally invited to in 1917, as a result of their contributions to the war effort. It was at the 1917 Conference that the UK resolved to start the Dominions on the path to independent nationhood. Resolution IX stated: 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..."

Further, both as the result of the Dominions' World War I contributions, and the forceful position advanced by the United States President, Woodrow Wilson at Versailles, the United Kingdom, initially reluctantly, granted the Dominions the right to attend the Peace Treaty negotiations in their own right. This was followed by King George V instructing the Australian Governor-General, R. M. Ferguson, to issue a Head of State full powers document on the 23rd April 1919, being in "good and due form" authorising Mr. Hughes and Sir Joseph Cook to attend the Peace Conference and to negotiate, and sign the Treaty of Peace, on behalf of the Commonwealth of Australia. The emancipation of the Australian nation was recognised by the other signatories to the Treaty by these other independent nations allowing Australia, and the other former Dominions, to sign as separate nations. The United Kingdom no longer signed Treaties on behalf of Australia. The instrument through which this was achieved is also known as the Treaty of Versailles. The unanimous ratification of this action was finalised in the Commonwealth of Australia Parliament on October 1st 1919. Australia immediately became a Member State of the League of Nations and the International Labor Organisation. Membership of these organisations was only available to sovereign nation states.

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, referring to the 1917 Imperial War Conference Resolution IX at para. 4.12, and clearly stated at para. 4.13 that Australia was now a sovereign nation - "Australia became an independent member of the League of Nations and the International Labour Organisation in 1919," and further in 4.13 - "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," (see "Trick or Treaty? Power to Make and Implement Treaties, ISBN 0 642 24418 9).

On July 14, 1996, investigators working in the archives of 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 Christie 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 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 June 28, 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 maybe 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. 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." The law of one nation may not be used to govern over another nation.

From the moment people gain independence they have a claim to, and possess the right of, self-determination. They are sovereign over their affairs (see the Covenant of the League of Nations, Art. 10, and the Charter of the United Nations, Art. 2 paras 1 and 4; together with resolutions 2131 [xx] 1965 & 2625 [xxv] 1970).

From that moment, the laws of their former colonial master become ultra vires. For it to be otherwise is to offend both common sense and the first principle of international law - the right to self-determination! If this is not so, then the United States of America remains today as a collection of colonies of Great Britain! From October 1st 1919 'An Act to Constitute the Commonwealth of Australia' became ultra vires, with regard to Australia. Its continued use by political parties to claim the power to establish a parliament to govern over the Commonwealth of Australia, that is, the Australian people, (see Quick & Garran "The Annotated Constitution of the Australian Commonwealth" 1901 at page 366) constitutes an offence against international law. It represents political interference by the United Kingdom and a denial of Australian citizens' inalienable right to self-determination.

From October 1st, 1919 the British Monarch became irrelevant to Australia. From October 1st 1919 Australia became a republic. From October 1st, 1919 it has been necessary to create a political and judicial system capable of bridging the legal void created when sovereignty changed from the Parliament of the United Kingdom to the people of Australia. That necessity still exists. If confirmation of this change in Australia's status from a "colony" to being "accepted fully into the community of nations of the whole world" is required, the Balfour Declaration 1929, the Report of the Inter-Imperial Relations Committee 1926 - Extracts at page 348, ( see 'II.  $\frac{3}{4}$ STATUS OF GREAT BRITAIN AND THE DOMINIONS' describing the Dominions as "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"), and Article 2 of the Charter of the United Nations make interesting reading. By using UK law to claim power, parliamentarians and others become agents of a foreign power.

By relying on this current Act of domestic law of the Parliament of the United Kingdom the Australian Parliament is definable as an extension of the Parliament of the UK. The Governor-General, State and Territory Governors, individual parliamentarians, Senators and all others involved in government, including members of the judiciary, are definable as agents of the UK. That is, agents of a power foreign to the Nation State, the Commonwealth of Australia. This scenario manifests right down to the policeman on the beat!

The much-vaunted Statute of Westminster Act 1931 (UK) was a thinly veiled attempt to patch up a broken legal system for the Dominions. Since it was design to operate beyond the shores of the UK, it failed the requirement under Article XVIII of the Covenant of the League of Nations as it was not registered with the Secretariat, and therefore never became a valid international instrument. It had no operational effect beyond the shores where it was created, the United Kingdom.

Every Member and Senator has committed an Act of treason by swearing and subscribing to an oath to serve the government of a power foreign to Australia. To underline this, the Constitution (embraced by Australian parliamentarians) at section 42, dictates that they must all swear and subscribe an oath of allegiance to the current Monarch in the sovereignty of the United Kingdom of Great Britain and Ireland. (Confirmed by letter from the Parliament of Australia, House of Representatives dated 10th June 1999 and signed by Robyn Webber, Director, Chamber

Research Office). But because the Monarch is appointed under the provisions of UK legislation and is therefore subordinate to the UK legislature (i.e. 'the Queen in Parliament') in point of legal fact, Parliamentarians, Senators and others have actually sworn an oath of allegiance to the Parliament of the United Kingdom. Quite clearly this constitutes an act of treason against the sovereign people of Australia. The Oath appears as the schedule to the Act and being outside 'The Constitution' is beyond the reach of Section 128, and thus, may not be altered by any authority outside the UK Parliament.

Further, The 'Queen of Australia' is purely titular. If indeed such an Office exists at all it does so without legal authority. Since the Bill of Rights of 1688, the Act of Settlement of 1701, and the Act of Union 1706, the Monarch has been appointed, first by the English Parliament and then, by the UK Parliament. The Queen is a 'Statutory Monarch'. As such she has no powers separate from the UK Parliament. In fact the official, descriptive title is 'The Queen in Parliament'. In her Office, the 'Queen' has no legal power to make decisions. She may only endorse and/or carry out decisions made by the Ministers that appointed her. Further, the monarch has no executive function within the Commonwealth, her role being purely titular.

In 1973, in her private life as Mrs Elizabeth Guelph (for she had no authority from the UK Parliament which possessed no power with regard to matters relating to an independent Australia), she chose to amuse Gough Whitlam, the then Prime Minister of Australia, by signing the Royal Styles and Titles Act 1973, which repealed the Royal Styles and Titles Act 1953, and 'created' the "Queen of Australia". Such an Office does not exist in UK law or, in particular, under the 'Australian' Constitution.

'An Act to Constitute the Commonwealth of Australia' is UK law and by definition (clause 2 of the Act) the only Monarch that the Constitution (clause 9 of the Act) recognises is the Queen of the United Kingdom of Great Britain and Ireland. Thus, even if it could be established that the Constitution has valid application, any law made under the Constitution cannot be given valid Royal assent by a Governor-General or Governor appointed by and representing a purely titular "Queen of Australia" (see the Royal Styles and Titles Act 1973 (Cth).

Further, taking into account the full content of the Act, even if it were possible to alter the Constitution so that it recognised the "Queen of Australia", a referendum under S128 relating to the adoption of such an Office would be necessary. Such a referendum has never been conducted! Attempts to "patch up the Constitutional mess" continued by the concealment of the truth from the Australian people. Adopting the Statute of Westminster 1931 (UK) in 1942, and making it commence retroactively from the 3rd September 1939, was an attempt to rule out any illegality of involvement in WWII by not having formally declared war on Germany 3 years earlier. The Statute was adopted at the time the newly appointed Prime Minister was declaring war on Japan, and the Australian Parliament needed to be sure of its power to do so.

The concealment continues with 2 more documents. The first being "The Letters Patent Relating to her Office of Governor-General of the Commonwealth of Australia" which was gazetted on the 24th August 1984 after being signed 3 days earlier at Balmoral in the United Kingdom. Under UK law, the writs of the sovereign die with the sovereign. But when Queen Victoria died on the 21st January, 1900, no new Letters Patent were issued until August 1984! This was 4 (not 5) monarchs later. These Letters Patent also had a clause to cover any 'invalid' Commission or appointment or any action taken by someone so commissioned or appointed without authority. This is the effect of clause VII.

The next document(s) created to continue the concealment was the passage of the Australia Acts (see web address for Australia Acts (Cth) & (UK)) through both the UK and the Australian Parliaments, in 1985, to commence in 1986. Contrary to international law, both of these Acts

attempted to infringe sovereignty of another nation, were not registered as required under the Charter of the United Nations to have extra-territorial effect, and consequently, can not be relied on in any international forum. Notwithstanding the international status of the Australia Act 1986 (Cth), the preamble and several clauses clearly indicate that British colonial law was continuing in the sovereign independent Australia, and that from the commencement of this Act, all such colonial law, as well as the UK government, will have no effect. If this was not the case, then there would not be any need to have an Australia Act, let alone 2 of them.

There are several major structural problems associated with the Australia Act (Cth), and since it is continually referred to in judicial decisions, it is worthwhile noting these problems.

(1) First, it does not remove all existing British law used in Australia. It only refers to new British law. Any Australian lawyer can testify that the Commonwealth and State Statute books are pregnant with British law, the most obvious being the Commonwealth of Australia Constitution Act 1900 (UK).

(2) Second, the termination of British law in Australia that is supposed to occur with this Act, when challenged, will be determined in a court which is dependent for its existence on the very same British law!

(3) Thirdly, Australia continues to have a monarch who derives her power from the British Parliament, and she remains the Executive Head of Government of the six Australian States. So to exercise her power in those States, her power must be seen as an extension of power of the UK Parliament.

(4) Lastly, at the very time that the Australia Acts came into law in Australia to prevent the UK Government from interfering in Australian matters (see also *Sue v Hill* HCA 30 of 1999), the Letters Patent relating to the Governors of South Australia, Tasmania, Victoria, Queensland and Western Australia was signed off by none other than Sir Anthony Derek Maxwell Oulton, KCB, QC, MA, Ph.D., Permanent Secretary, Lord Chancellors Office, UK Parliament!

Recent confirmations establish invalidity of the political and judicial system currently being applied in Australia. While all of this is relevant and pertinent, it is as well to be aware that on, 19th December 1997 the Office of Legal Council of the General Secretariat of the United Nations volunteered and thus confirmed that Australia has been a sovereign State from the 24th October 1945 at the latest. This was confirmed by letter dated 19th December 1997, from the Acting Director and Deputy to the Under-Secretary-General, Office of the Legal Counsel, under the hand of Paul C. Szasz.

On the 5th November 1999, the UK Government through their High Commission in Canberra, volunteered and thus confirmed that the UK British Nationality Act 1948 legislated that Australia was not a protectorate of the United Kingdom, so both the UN and the UK have confirmed that for at least 53 years Australia has been an independent sovereign nation State. This was confirmed by letter dated 5th November 1999, from the Chief Passport Examiner, British High Commission, Canberra, under the hand of Mrs Carole Turner.

As a consequence, under both international and UK law the UK Parliament's 'An Act to Constitute the Commonwealth of Australia' has been ultra vires in relation to Australia for at least 53 years. So, for purposes of definition and resolution there is no fundamental need to look any further back into history.

It is also most pertinent to note that on the 6th November 1999 the entire people of Australia, by referendum had for the first time, the opportunity to have their say regarding the acceptance

or otherwise of the Constitution under which they are governed. They overwhelmingly rejected the 'Preamble to the Constitution' question which included, "We the Australian people commit ourselves to this Constitution," (The proposition was rejected in every State and Territory of Australia on a national basis of 60.66% to 39.34%. see end note.). Thus the question must now be asked: "How can present Australian parliaments possibly continue to exist under the terms of a Constitution to which the people have refused to be committed?"

So it is that the Australian Parliament; relying for its existence, as it does, on a law which can no longer have application in Australia, remains a puppet, in legal terms, of the United Kingdom Parliament. Currently, the only way Australian Commonwealth Bills can be allegedly passed into Acts of law is by having them assented to in the name of a Monarch, who has no legal standing in any forum anywhere in the world. Clause 2 of the Commonwealth of Australia Constitution Act rules that, for the purposes of that Act, all references to the Queen lie in the sovereignty of the United Kingdom of Great Britain and Ireland. However, the Anglo-Irish Treaty of December 1921, which was ratified on 15th January 1922, brought into existence the Irish Free State. In 1937 the Irish Free State became the Republic of Eire. Hence, "Ireland" ceased to exist as a legal entity on 15th January 1922.

At the same time, the sovereignty 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 Parliaments Royal and Parliamentary Titles Act 1927. The United Kingdom would constitute an international joke if at the beginning of the 21st Century it masqueraded as still existing in the 78 year defunct sovereignty of Great Britain and Ireland! But, to this day every Australian Parliamentarian, Senator, and Judge swears and subscribes an oath to the Monarch in the same 78 year obsolete sovereignty! Effectively, this results in a legal limbo any independent observer would conclude is bizarre. In short, the Australian Parliament is not a valid organ representing the Sovereignty of the Commonwealth of Australia and cannot pass any laws which can have valid application within Australia, or anywhere else for that matter.

Clearly the Commonwealth Government of Australia is invalid. As a consequence, no law made in the Australian Parliament has valid application in Australia, or anywhere else. The only law that can be validly applied in Australia is international law, and possibly the common law of Australia.

The simple fact of the matter is, there is a fundamental and urgent need to place before the Australian citizenry a new, if interim, Constitution under which they are prepared to be governed with a view to allowing the appropriate mechanisms to be established which would enable a democratically decided Constitution to be agreed to and implemented.

However, there maybe serious consequences for the international community as a result of invalid Australian Governments entering into both international treaties and contracts. This arises because the "Australian" Constitution creates the structure of the Australian Federal Government together with establishing the States and Territories (see Chapter V being ss. 106 to 120 of cl. 9 of the Commonwealth of Australia Constitution Act). These governments, being established under that Act of the UK Parliament, are also then invalid, as is their legislation. Any treaties, contracts or agreements entered into by them must be void. In this context it must be noted that the Australian Federal Government - which is responsible for signing treaties - could not at any time, under International Law, have validly represented the Sovereign People of Australia. At any time, therefore, it could be argued that any, each and every one of such treaties maybe declared invalid and not binding on signatory States. This in turn represents a threat to the protection of, inter alia, commercial and intellectual property, patents, contracts, extradition orders, peace treaties and defence alliances.

Regarding contracts, by way of a simple example, multi-national insurance companies having entered into insurance contracts which operate within the territory of Australia or under Australian law may hold contracts which are void ab initio owing to a fundamental breach of the insured's duty of disclosure. The documents which unequivocally demonstrate the issues outlined above are inherently public documents which have been easily accessible for years.

A broader issue, likewise, arises with regard to the quantum of any damages claim that could foreseeably be made against the UK before the European Court of Justice, because given that the High Court of Australia has ruled that the Commonwealth of Australia Constitution Act (Imp) is not ultra vires in Australia, and that all subordinate legislation is still subject to the limitations imposed by that domestic law of the UK, is Australia still therefore, a colony of the UK? If so, will citizens in Australia be granted their full rights as European Citizens resident in a colony of a Member State, including the right to freely enter each Member State and trade therein without restriction or penalty (other than those prescribed by the law of the EEC for members of the European Community)? Will damages be appropriate for the period that residents of Australia were denied such access to these European markets?

Has the UK denied the citizens resident in Australia, who by referendum on 6th November 1999, rejected the continued use of the domestic British Law, the right to self determination in contravention of International Law, the treaty establishing the European Community, the Charter of the United Nations and other treaties? Has the UK, by subterfuge, attempted to conceal from the European Community, the real nature and depth of it's continued involvement in the governments of Australia? If so, at what cost?

Alternatively, do the Member States of the European Union, having recognised the sovereign independence of the Australian people owe a duty, under Article X of the Covenant of the League of Nations and under Articles 2 and 4 of the Charter of the United Nations, to prevent continued illegal dominance of Australian citizens by the UK? Are such States liable for damages if they remain inactive in this regard?

Given that the High Court of Australia has declared that even though citizens resident in Australia are governed under domestic British Legislation, they are denied the fundamental Human Rights conferred on British citizens by the same UK Parliament through both common law and through the accession of the European Convention on Human Rights and Fundamental Freedoms (See the Human Rights Act 1998 (UK). Are judicial officers within Australia - all of whom are appointed under UK legislation and commissioned by Governors and Governors-General appointed by the UK Parliament - in breach of the said Covenant? If so, to what extent will liability be found to rest with the UK Parliament, given that despite official declarations as to Australia's independence, that Parliament has maintained a colonial regime in Australia through force majeure?

Moreover, the status of many people who have been granted Australian Citizenship under the provisions of the National Citizenship Act 1948 (Cth) has - in a limited number of cases - already been questioned, for apart from the established arguments as 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 (see s. 51 xix)!

YES! THE SITUATION IS EXTREMELY SERIOUS! And yes, by definition, Australia currently exists in a state of legal anarchy! And yes, there is reason to believe that the international community is very concerned. After all, what is the worth of an international treaty which has been signed by an authority which does not validly represent the sovereignty of the State?



Over a number of years senior political identities of all persuasions within Australia including Prime Ministers, Attorneys-General and other senior Cabinet Minister together with minor party leaders have been fully briefed.

The documents of history have been presented to Australian Courts at all levels. Currently there are matters before other courts outside of Australia. Having exhausted all possible avenues for domestic remedy and recognizing that, in fact, the situation is so serious that there exists a very real potential for a total breakdown in 'law and order', an appeal for assistance has been advanced to the entire international community.

The mechanism by which this was achieved has been by way of a 480 page submission individually presented to all 185 Member States of the United Nations as well as to, Kofi Annan the General Secretariat, the Human Rights Commission, the Human Rights Committee and the Security Council.

The document includes a request for the establishment of an International Criminal Tribunal to prosecute individuals who can be shown to have inhibited the inalienable right of Australian citizens to self-determination by knowingly subjecting Australian citizens to British colonial law within the sovereign territory of the Commonwealth of Australia.. It is clear that along the way the situation will be, by necessity, brought before the International Court of Justice. Advice from three continents is that there exists no counter argument, and that therefore the outcome is a forgone conclusion. 11 nations have received the submission. No nation has returned or rejected it. Many nations have confirmed and/or are actively giving their support to the Sovereign People of Australia. For obvious reasons these nations cannot, at this stage, be named.

It is to be hoped that Australia's unique constitutional conundrum and associated problems flowing therefrom can be expeditiously and peacefully rectified, however it is incumbent upon lawyers, academics, politicians and others to be fully aware of the situation and its implications so as to be able to offer informed advice when this is sought.

The authors believe that this advice will be required shortly, particularly by governments and businesses within those nations which are Australia's trading and defence partners. Moreover, there is cause to apprehend that citizens, former citizens and corporations domiciled in those nations against which Australia declared war- beginning on 3rd September 1939 - may wish to pursue claims for reparations under Article 36 of the Statute of the International Court of Justice because a declaration of war is an action under international law only capable of being performed by a sovereign power. Any seizure of property and assets belonging to such nations was illegal. The terms of section 3(1) and (2) of the Australia Acts 1986 (UK and Cth.) constitute a clear admission by both Australia and the UK that colonial law was, at least up to 1986, being applied in Australia.

It is our hope that by not indulging in legal opinion or jurisprudential theory, but rather by relying entirely upon original documents of statute law and history (most of which are easily ascertainable), we have gone some way to answering this need. (Endnote: 6th November Referendum Results - enrolled - 12,387,729, total votes Counted 11,785,035, results - yes 4,591,563, no 7,080,998, informal - 112,474.). Thus, by the only national vote ever held in which all citizens were entitled to vote on the issue, the proposition was rejected in every State and Territory of Australia on a national basis of 60.66% to 39.34%, clearly establishing that the Australian population did not commit themselves to be ruled by a controlled colonial constitution).

Research by James Franics

## Upon Further Research

Given the research and accusations of James Francis, and his submission of the above document within the Judicial Systems of Victoria, it could be said that the Australian Government is invalid at law, without foundation. The following should then be considered when looking into further evidence of the invalidity of the Commonwealth of Australia Constitution Act in relation to the "Australian Government".

Sovereignty under the United Kingdom of Great Britain and Ireland had started under Henry VII when the Tudor Constitutional Monarchy was created out of the War of the Roses, and finally in 1801 by the Union of Crowns forming it as the United Kingdom of Great Britain and Ireland.

Queen Victoria ascended to the throne in 1837 taking on Style and Title and removing the House of Hanover from the Coat of Arms by Royal Styles and Titles 1837 by proclamation stating "henceforth the shield or escocheon of pretence representing His late Majesty's dominions in Germany, and ensigned with the Hanoverian royal crown, shall be omitted, and the shield left to contain the arms or ensigns armorial of the United Kingdom of Great Britain and Ireland only;" (Source: *S.R. & O. Rev. Dec 31, 1948*: vol. 2, p. 796)

The Colonies had been given self governance under Queen Victoria in the 1850's through the Australian Constitutions Act 1850 UK. This document is significant for the current four Australian Colonies established before the 1850's, as well as separating from New South Wales the newly formed colony of Victoria in which it received Constitution through this Act which was given assent and signed by Queen Victoria on 5<sup>th</sup> August 1850. The New South Wales Parliament passed necessary legislation before separation took effect on 1<sup>st</sup> of July 1851. This formerly founded the colony of Victoria, its separation from New South Wales established under Section 1 of the Act. This document also had important effects on the government of the four established colonies of New South Wales, Van Diemens Land, South Australia and Western Australia, as well as providing authorisation for the establishment of a Parliament of two houses in the colony of New South Wales.

In 1869, Queen Elizabeth organised for a telescope to be installed in the now Kings Domain in Melbourne. This is featured in-between Government House, Observation House, the Observation Gates, and across what is now a roadway, the Shrine of Remembrance built to honour the Anzac's who died in the Great War 1914-1918 which led to the Treaty of Versailles and subsequently the League of Nations attended by Prime Minister Billy Hughes.

The "Great Telescope" installed by Queen Victoria was used to view the rise and setting of Venus and Mars, and to this day continues to do so. A new telescope was installed at Mount Stromlo in the Australian Capital Territory. The observatory at Mount Stromlo was established in 1924 as The Commonwealth Solar Observatory. The Mount Stromlo site had already been used for observations in the previous decade, a small observatory being established there by Pietro Baracchi using the Oddie telescope being located there in 1911. The dome built to house the Oddie telescope was the first Commonwealth building constructed in the newly established Australian Capital Territory. In 1911 a delegation for an Australian Solar Observatory went to London seeking Commonwealth assistance. The League of the Empire sought subscriptions to assist raising funds.

Since 1870, the colony of Victoria had been observing the skies. At this time notions to create a Federal Body within the continent of Australia has been put before the House of Lords in London first being noted in Hansard Record UK in 1875, this led to the drafting of the Commonwealth of Australia Constitution which was put to the people throughout Australia and sent back and forth between London and Australia. Observations of the southern skies had

started a century earlier when Captain Cook, a Maritime Astronomer had sailed to the southern seas to follow the transit of Venus in 1769 a century before the installation of the Great Telescope by Queen Victoria in what is now the Kings Domain.

From 1875 when Federation had first been put before the House of Lords in London, the foundational documents created by Henry Parkes, the Father of Federation went before the House of Lords on numerous occasions before being discussed throughout the Colonies of Australia. This led to Debates of Federation of which the most important occurred in the 1890's. After Debates of Federation, and a vote by the people of the Colonies of Australia, the Commonwealth of Australia Constitution was given validity by the very people, subjects of Britain within the Colonies in Australia. It could be said that the creation by Henry Parkes with the approval of the people gives the Commonwealth of Australia Constitution its validity, but lacking a Sovereign Head to what is a Body of Christ, Quick & Garren noting in the Annotated Constitution in relation to the Preamble 8 different points, the most important of which being "under the Blessing of Almighty God".

As Defender of the Faith of the Colonies before Constitution, Queen Victoria became the Sovereign Monarch of the Commonwealth of Australia, approving through the Parliament of the United Kingdom of Great Britain and Ireland the Commonwealth of Australia Constitution Act July 1900 UK/PGA. As can be noted by research by James Francis, this then became an Act of the United Kingdom of Great Britain and Ireland Parliament which was unable to be changed by the newly formed Commonwealth under the blessing of Almighty God.

The United Kingdom since King George III had been in financial troubles, and leading into the American Civil War had suffered great financial losses leading to the Bank of England Act of 1870. In 1863, Abraham Lincoln had taken the Confederate States of America occupying those Confederate States and emancipating Slaves. The British Parliament subsequently readdressed previous Slave Trade Acts introduced under William Wilberforce and created the Slave Trade Act 1874 abolishing slavery completely unless it was under Voluntary Servitude. At this time the first Geneva Conventions were held in 1864 which led to the first Hague Conventions of 1899.

The Commonwealth of Australia Constitution Act 1900 July 1900 UK/PGA was sealed in the UK Parliament under Muir Mackenzie under the Great Seal of Queen Victoria and the Commonwealth of Australia came into being on the 1<sup>st</sup> of January 1901, with its Parliament of the Commonwealth taking first sitting in Melbourne as per Section 125 Seat of Government on the 9<sup>th</sup> of May 1901.

King Edward ascended to the throne of the United Kingdom of Great Britain and Ireland after Queen Victoria's death on the 22<sup>nd</sup> of January 1901. The Commonwealth of Australia, under the Defender of Faith, Commander of the Imperial Forces, along with the Governor General Commander in Chief of the Commonwealth of Australia saw Australian Troops in the Boer Wars of Africa another financial burden on the United Kingdom of Great Britain and Ireland.

#### **THE COLONIES AND THE COST OF THE WAR.**

HC Deb 08 March 1900 vol 80 cc374-5374

#### **§MR. WILLIAM REDMOND**

I beg to ask Mr. Chancellor of the Exchequer whether it is proposed to ask Australia, Canada, or any of the colonies to bear any portion of the cost of the present war, or whether all the expenses of military operations are to be paid solely by the taxpayers of Great Britain and Ireland.

**§MR. COGHILL** (Stoke)

Is it proposed to give to Australia, Canada, or any of the colonies 103 representatives in the House of Commons?

**§THE CHANCELLOR OF THE EXCHEQUER (Sir M. HICKS BEACH,)** Bristol, w.

If the hon. Member will refer to Command Paper 18, presented in November last, he will find, at page 6, the information he desires with regard to the charges falling on Canada and the Australasian colonies.

**§MR. WILLIAM REDMOND**

Are we to understand that the colonies will bear no portion of the £60,000,000?

**§SIR M. HICKS BEACH**

They are contributing towards their own forces.

**§MR. WILLIAM REDMOND**

Cannot the right hon. Gentleman say that some arrangement should be considered whereby each portion of the Empire should pay towards the cost, and not leave it all to fall on the unfortunate taxpayers of this country?

**§\*MR. SPEAKER**

Order, order!

**§MR. WILLIAM REDMOND**

If Australia does not pay I don't see why Ireland should.

Already embroiled in financial woes from the War of 1812, and the American Civil War of 1861, the United Kingdom of Great Britain and Ireland attended Hague Conventions 1907 under King Edward the VII. This forms part of the Australian Treaty Series being installed in the Commonwealth of Australia on Australia Day 26<sup>th</sup> of January 1910 where in at Section 55 of the Hague Convention IV War on Land 1907 the Commonwealth was put under Administration under the Rules of Usufruct. [1].

The Commonwealth of Australia Flag was adopted by the National Government in September 1901 featuring a Six Pointed Star in the lower canton, and a Southern Cross featuring stars numbering in points from Epsilon with five points anticlockwise featuring six, seven, eight and nine pointed stars. This was given Admiralty Orders in 1903 detailing its backing on a Red Ensign.

After the Hague Conventions of 1907, the Commonwealth of Australia Flag was changed again under Admiralty Orders 1908. This then changed the Flags lower canton star to a seven pointed star and the four main stars of the Southern Cross to seven pointed stars. Following this under Admiralty Orders 1936, under King George V as Monarch, orders detail the use of Blue and White Ensigns on Land being strictly for the use of Government, and detail the use of Red Ensigns for Parliament and use of the people.

Australian Imperial Forces entering into the Great War fought under a Red Ensign, many of them fighting with flags bearing a Six Pointed Star under the Imperial Tudor Crown of the United Kingdom of Great Britain and Ireland. The Great War of World War I brought financial troubles further onto the United Kingdom of Great Britain and Ireland, with Lord Balfour introducing the Balfour Declarations as early as 1917 and introducing a Mandate for Palestine.

The Defence Act of 1917 Commonwealth did not lift a State of War, merely changing its wording to reflect that we were still in a state of war, although now being pushed before a Treaty of Peace which was planned for Versailles in 1919. As is already documented in previous research, this led to Billy Hughes attending in Versailles and speaking on behalf of the Commonwealth of Australia wherein he used the wording that he would "speak for his 60,000 dead", in which Australia had suffered the largest losses per capita of any nation participating in the war with a population of only 5 million at that time.

King Edward however had already signed the Commonwealth of Australia into Hague Conventions of 1907, with Hague Conventions IV War on Land being installed on the 26<sup>th</sup> of January 1910, leaving Billy Hughes to speak in an already Administered Commonwealth. Henry Parkes had been the Father of Federation, whereas Billy Hughes was defining the defence of that creation by sons of that Commonwealth.

In May 1925 the Coat of Arms used on the Government Gazette was changed to the United Kingdom of Great Britain and Northern Ireland, before Imperial Conferences of 1926 and before Royal Styles and Titles renaming the United Kingdom of Great Britain and Ireland to that of Northern Ireland in 1927. In June and July 1925 this subsequently changed to the Coat of Arms given Royal Warrant by King Edward VII in 1912 displaying Kangaroo and Emu with shield showing the six Coats of Arms of the States upon it.

Imperial Conferences were then held in 1926 wherein the United Kingdom began to be split up into dominions and renaming of the United Kingdom of Great Britain and Ireland became that of Northern Ireland. Although demonstrated in the changes of the House Coat of Arms in Government Gazette in the Commonwealth of Australia can demonstrate that changes had occurred in Australia. Under Royal Styles and Parliamentary Titles (17 Geo. 5. c. 4 [12th April 1927.]) King George V saw change to the name of the United Kingdom at Section 2.-(1) "Parliament shall hereafter be known as and styled the Parliament of the United Kingdom of Great Britain and Northern Ireland;"

Oddly though, King George V made further change to Style and Title to his own Title by Proclamation appertaining to the Crown on 13<sup>th</sup> May 1927 a month after Parliamentary Styles changed the name of the Kingdom. Wherein removing the title "George V by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India" and replacing it with "George V by the Grace of God of Great Britain, Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India".

The creation of the Parliament of the Commonwealth of Australia in the Australian Capital Territory coincides with the creation of the Kings Domain in Melbourne along with the Shrine of Remembrance which honours the lives of Anzac's following the statements of Billy Hughes in 1919 leading to entry into the League of Nations already detailed above.

A competition for the creation of the Federal Parliament in Canberra was proclaimed on 1<sup>st</sup> July 1914, although with the outbreak of the Great War was delayed. The first competition withdrawn, although concerns in 1915/16 the Parliament in Melbourne became concerned about a National Seat of Government and revived the competition. The competition was revived in August 1916 but excluded participation by enemy subjects. A proposal was accepted and first designs were posed in 1923.

Australia had gone to the Treaty of Versailles and agreed to reparations which were detailed in the newspapers at 4.5% of the United Kingdom's Debts, and in 1923 after Turkey finally signed its last treaties Woodrow Wilson finalised the Treaty of Versailles incepting the League of

Nations. This subsequently saw the creation of the Debt Sinking Fund 1923 in the Commonwealth of Australia. At Section 9(1)(a) of the Act, it is detailed that the Treasurer will pay into the fund for a period of fifty years commencing at the year 1923/24 a sum of one million, two hundred and fifty thousand pounds.

The Governor General of the Commonwealth Bank, Sir Dennison Miller K.C.M.G. had put full page advertisement (Sydney Mail 10<sup>th</sup> August 1921) detailing what the Nation had to do to pay off the reparations created by signing the Treaty of Versailles. The Governor had stated "The remedy lied in increased production, greater economy, and, last, but no means least, a steadier encouragement of THRIFT." This however didn't come to fruition as the Commonwealth of Australia ended up before Bretton Woods Agreements on the installation of Reserve Currencies which led to the International Monetary Fund Act 1947 and subsequently the Nationality and Citizenship Acts 1948.

Chief Architect of the Department of Works and Railways John Murdoch provided sketch plans for a building at Kurrajong Hill (now Capital Hill, the site of the new Parliament House) and a six sided capstone was installed on the grounds, which has since been moved to make way for the new Parliament House. Walter Burley Griffin was a vigorous opponent of the provisional building believing that it was an unwarranted variation to his designs. To put this resolution into practice, a Loan Bill containing an amount for the Federal Territory was raised. This Bill passed through the House of Representatives on 17 August 1923.

On 28 August 1923 the first sod was turned by the Minister for Works and Railways (P G Stewart). This was a modest ceremony attended by a small number of parliamentarians and approximately 2000 residents of the surrounding areas. By November 1923 they were ready to start on the footings. In November 1925, John Butters (Chief Commissioner, Federal Capital Commission) was able to say, 'I was over at Parliament House this morning and find that everything is going well and that by Christmas the place will be looking quite respectable'.

The date of the opening of Parliament House had been announced on 26<sup>th</sup> May 1926. The 9<sup>th</sup> May was the anniversary of the opening of the first Federal Parliament in Melbourne in 1901. However, many favoured 26<sup>th</sup> January as being more appropriate. Although Parliament House could be ready by 26<sup>th</sup> January 1927, the infrastructure necessary for the Opening Ceremony and for the transfer of government departments from Melbourne could not be achieved by that date and so 9<sup>th</sup> May 1927 was confirmed.

We must now remember that Hague Conventions IV War on Land was installed under Treaty Series on the 26<sup>th</sup> January 1910 seeing Administration of the Commonwealth of Australia under the Rules of Usufruct signed off by King Edward VII.

On 12<sup>th</sup> July 1926 the Governor General sent a telegram to King George V and the reply was received on 16 July 1926. The King had stated "It will give the Duke of York the greatest pride and pleasure to represent His Majesty at the opening ceremony and Their Royal Highnesses are eagerly looking forward to their visit to Australia for this purpose."

Prime Minister Bruce and the Duke addressed the crowd and a large radio audience. They both spoke of the history of Australia and its progress since Federation and the strong links with Great Britain. In his address the Duke of York said: "It is impossible not to be moved by the significance of today's events as a great landmark in the story of Australia. I say this not only because today sees the opening of a new Parliament House and marks the inauguration of a new capital city, but more because one feels the stirrings of a new birth, a quickened national activity, of a fuller consciousness of your destiny as one of the great self-governing units of the British Empire".

Atop the building of the now Old Parliament House on the left is featured the Coat of Arms of the United Kingdom of Great Britain and Ireland, and to the right the Coat of Arms featuring Kangaroo and Emu with shield depicting the coats of arms of the six states. But this is again odd, as on the 12<sup>th</sup> April 1927 following Imperial Conference 1926, Royal and Parliamentary Styles Act 1927 changed the name of the United Kingdom of Great Britain and Ireland to that of Northern Ireland and subsequently the Coat of Arms for that Kingdom. King George V followed this with his own Style and Title appertaining to the Crown on 13<sup>th</sup> May 1927, some 8 days after the opening of the Parliament of the Commonwealth of Australia.

We then must look at the Coat of Arms change in Government Gazette of May 1925, which is currently in use throughout New South Wales being displayed behind Magistrates and Judges in 2017. And the Coat of Arms to the left of Old Parliament House opened on 5<sup>th</sup> May 1927 and the Style appertaining to the Crown by King George V on 13<sup>th</sup> May 1927 going against Royal and Parliamentary Styles changing the United Kingdom of Great Britain and Ireland in the UK to that of Northern Ireland on 12<sup>th</sup> April 1927.

In 1953 Queen Elizabeth took Oath at Westminster Abbey at her Coronation to the United Kingdom of Great Britain and Northern Ireland and then attended the Parliament in Victoria to open the Parliament followed by the Old Parliament House in Canberra. A Chair inside the Old Parliament House displays Coat of Arms (No Angel on Harp) yet on the left atop the building of the Old Parliament house displayed Coat of Arms (with Angel on Harp).

We have evidence of two kingdoms at play, and Administration under the Rules of Usufruct under Hague Convention which is valid until this day in 2017. We can show this by looking at Acts Interpretation Act 1966 following the demise of Gold and Silver Currency in Australia going against the Constitution Act wherein at Section 115 it states that all debts are to be paid in Gold and Silver. The Reserve Bank of Australia created under the RBA Act of 1959 replaced the Commonwealth Bank as the principal National Bank in 1966 and the Debt Sinking Fund Acts were merged into newer financial acts. The Commonwealth of Australia was falling into further Administration.

The Acts Interpretation Act 1966 states within at Section 18(a) the "United Kingdom" shall mean the United Kingdom of Great Britain and Ireland. This was changed in 1973 in Acts Interpretation Act 1973 at Section 4 omitting Section 17(a) and 17(b) changing the Titles of the Commonwealth of Australia and the descriptions that Australia includes the Commonwealth of Australia. This was given Assent by the Queen of the United Kingdom of Great Britain and Northern Ireland.

Within the buildings of Old Parliament House stand King George V, and the forecourt is named King George V Terrace displaying a Statue of King George V with Imperial Tudor Crown on the side of said Statue. The Imperial Crown is features on the doors to the Shrine of Remembrance in the Kings Domain wherein Australia's Coronation Stone can be found being tied to the Observation House and Government House found in the same grounds.

Australia is its own Sovereign Commonwealth with Coronation Stone and Throne found inside Government House in Victoria, within a Colony now turned State created by Queen Victoria and named in kind, within a city named after her most trusted advisor Lord Melbourne. Changes to the United Kingdom at Westminster came after Lord Balfour's Declarations, Treaties at Versailles and Imperial Conferences splitting the British Empire into a British Commonwealth of Nations although due to the actions of King George V did not affect the Commonwealth of Australia due to his Sovereignty being created on the lands of Terra Australis.

We can now see that along with research by James Francis detailed aforementioned, that the Australian Government is not only an unlawful Australian Government, it became a Government De Facto following the failure to address debts detailed in the Debt Sinking Fund Act 1923 which after 50 years led to Gough Whitlam having Secret Meetings with Queen Elizabeth of a Kingdom foreign to the United Kingdom of Great Britain, Ireland and the Dominions Beyond the Seas created her in Australia by King George V. A Government De Facto was created in 1973 which removed Nationality altogether under Citizenship Act 1973 and flies the Flag changed in 1908 under Admiralty Orders 1908 which was passed through the Parliament under Flags Act 1953. A Flag that is foreign to the Commonwealth of Australia under King George V, the demise of an Imperial Crown Kingdom of Great Britain, now sitting Sine Die.

The justices of the Engineers Case of 1920 said it quite succinctly when they stated "When the people of Australia, to use the words of the Constitution itself, "united in a Federal Commonwealth," they took power to control by ordinary constitutional means any attempt on the part of the national Parliament to misuse its powers. If it be conceivable that the representatives of the people of Australia as a whole would ever proceed to use their national powers to injure the people of Australia considered sectionally, it is certainly within the power of the people themselves to resent and reverse what may be done. No protection of this Court in such a case is necessary or proper. Therefore, the doctrine of political necessity, as means of interpretation, is indefensible on any ground. The one clear line of judicial inquiry as to the meaning of the Constitution must be to read it naturally in the light of the circumstances in which it was made, with knowledge of the combined fabric of the common law, and the statute law which preceded it, and then *lucet ipsa per se*."

The people's Sovereignty is within the Constitution of the Commonwealth of Australia held within a Parliament of the United Kingdom of Great Britain and Ireland, held sacred by King George V by bringing Sovereignty down under and keeping the Constitution Act valid in Law by not only protecting the Commonwealth of Australia now under Government De Facto causing slavery on the people of that Commonwealth, King George V created Sovereignty in a Throne of that Kingdom accessible via the Coronation Stone found within the Temple that is the Shrine of Remembrance. A Shrine that observes the heavens to this day, and has done since 1870 when ideas for the Constitution of the Commonwealth of Australia were incepted before being put before the House of Lords in London in 1875.

The Australian Governments only position in International Law is that of an Administrator under the Rules of Usufruct relying on a copy of the Constitution Act that is outside of their reach due to the actions of joining the League of Nations, followed by the Statute of Westminster making them a Foreign Power in the Realm to which can be considered Treason by all Members of the Australian Parliament voted on by the people of Australia.

This would mean that the Parliamentary Oath changed under Gough Whitlam through Secret Meetings with the Queen is Foreign to the Realm of the Commonwealth of Australia under King George V which exists *sine die*, to this day as can be demonstrated by Acts Interpretation Acts and changes to the Constitution Act as well as failures of Immigrants to enter the Commonwealth of Australia under a true Oath of Allegiance.

**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 34**  
**Qualifications of members**



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.

Qualification of members to the House of Representatives is required to be a Subject of Queen Victoria her heirs and successors in that of King George V under the Imperial Crown under Title of the United Kingdom of Great Britain. And as per the Constitution Act at the Preamble the United Kingdom of Great Britain and Ireland.

#### **COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 8**

##### **Qualification of electors**

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.

This also applies to the Senate which must follow the same rules for qualification to parliament as the House of Representatives.

#### **COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 30**

##### **Qualification of electors**

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.

Electors are then again, required to be under the Constitution Act which at Clause 5 defines the States being under the Constitution and required to have an Oath of Allegiance detailed at the Schedule to the Constitution.

#### **COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - 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.)

This brings us to the Coronation Oaths of Queen Victoria, King Edward VII, and King George V and their correlation to the Coronation Oath of Queen Elizabeth II.

### **QUEEN VICTORIA**

Will you solemnly promise and sweare to governe the people of this kingdome of England and the dominions thereto belonging according to the statutes in Parlyament agreed on and the laws and customs of the same?

The King and Queene shall say,  
I solemnly promise soe to doe.

### **QUEEN ELIZABETH**

Will you solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, Pakistan and Ceylon, and of your Possessions and other Territories to any of them belonging or pertaining, according to their respective laws and customs?

I solemnly promise so to do.

The Constitution Act and Constitution is under the United Kingdom of Great Britain and Ireland. This is now shown to be proven through Acts Interpretation Act, the Constitution Act, as well as changes to the Constitution by way of Statute of Westminster Adoption Act which was used to install the Australia Act 1986 which was given Assent on the same day in which the Request and Consent Act was issued. The Oath of Allegiance was then changed in 1973 in secret behind the people's backs, and then again in 2002 changing it into a Pledge rather than an Oath.

Citizenship wasn't introduced in the Commonwealth until 1948 to make the people liable to the International Monetary Fund Act 1947. The people are starting to wake up to the fact that Citizens pay to the ATO in RBA Notes because the Commonwealth Bank was taken away as the National Bank and replaced with Credit from the IMF through the RBA to be paid off by Citizens to the ATO.

We are Subject of the Crown, as there is no Country mentioned in the Oath of Allegiance detailed in the Schedule to the Constitution at Clause 9. A Pledge also means that no immigrant coming into the Commonwealth of Australia is under an Oath of Allegiance and is in Australia *ultra vires*.

#### **Pledge 1**

From this time forward, under God,  
I pledge my loyalty to Australia and its people,  
whose democratic beliefs I share,  
whose rights and liberties I respect, and  
whose laws I will uphold and obey.

#### **Pledge 2**

From this time forward  
I pledge my loyalty to Australia and its people,  
whose democratic beliefs I share,  
whose rights and liberties I respect, and  
whose laws I will uphold and obey.

### **COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - 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.

**pledge** *n.* [O.F. *plege*, a surety] something deposited or considered as a security' a surety; a token, as of agreement; a drinking to the health of; --*v.t.* to deposit in pawn; to leave as security; to engage for; by promise or declaration; to drink to the health of.

## **DEPARTMENT OF FOREIGN AFFAIRS AND TRADE CANBERRA**

International Convention concerning the Laws and Customs of War on Land [Hague IV]  
(The Hague, 18 October 1907)

Entry into force for Australia and generally: 26 January 1910

AUSTRALIAN TREATY SERIES

1910 No. 8

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### **Article 55**

The occupying State shall be regarded only as administrator and usufructuary of public buildings, landed property, forests and agricultural undertakings belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of such properties, and administer them in accordance with the rules of usufruct.

**usufruct** *n.* [L.] the right of using and enjoying the produce, benefit, or profits of a thing belonging to another, provided that it be without alienating or impairing the substance.

**usufructuary** *n.* one that has the usufruct of property ;-- a. Pertaining to, or in the nature of, a usufruct.

**usurp** *v.t.* [F. Fr. L. *usurpare*] to seize and hold in possession by force, or without right.

**usurpation** *n.* act of seizing, or occupying and enjoying, the power or property of another without right.

**administer** *v.t.* [L. *ad* and *minister*, servant] to manage or conduct, as public affairs; to dispense, as justice; to tender, as an oath; to settle, as the estate of one that dies without a will; --*v.i.* to contribute; to bring aid or supplies; to perform the office of administrator

1. <http://www.austlii.edu.au/au/other/dfat/treaties/1910/8.html>
2. Guide number 6 in the series of Research Guides published by the National Archives

Research by Steven of the House of Spiers.

**A MOST SERIOUS ISSUE FOR THE PEOPLE OF THE COMMONWEALTH**



## APPENDIX

### **Proclamation directing the omittance of the arms of Hanover from the Royal Arms.**

London, July 26, 1837.

(Source: *S.R. & O. Rev. Dec 31, 1948*: vol. 2, p. 796).

By the Queen.

A Proclamation

Whereas King George the Third, by his royal proclamation, bearing date the first day of January, one thousand eight hundred and one did, by and with the advice of His Privy Council, amongst other things, appoint and declare that, with the arms or ensigns armorial of the United Kingdom of Great Britain and Ireland there should be borne on an escocheon of pretence the arms of His Majesty's dominions in Germany ensigned with the electoral bonnet, and that the standard of the said United Kingdom should be the same quarterings as were therein declared to be the that the standard of the said United Kingdom should be the same quarterings as were therein declared to be the arms or ensigns armorial of the said United Kingdom, with the escocheon of pretence thereon thereinbefore described; and that the arms or ensigns armorial aforesaid should be used thenceforth, as far as conveniently might be, on all occasions wherein Her Majesty's arms or ensigns armorial ought to be used; and whereas His said Majesty having, in the year one thousand eight hundred and sixteen, substituted to his ancient title of Elector of the Holy Roman Empire the title of King of Hanover, it was thought fit that an alteration should be made in His Majesty's arms or ensigns armorial, and it was therefore by and with the advice of His Majesty's Privy Council, accordingly declared, by a royal proclamation, bearing date the eighth day of June in the year one thousand eight hundred and sixteen that instead of the arms of His Majesty's dominions in Germany ensigned with the electoral bonnet, as directed by His Majesty's proclamation above mentioned, there should thenceforth be used and borne with the arms or ensigns armorial of His Majesty's said United Kingdom, on an escocheon of pretence the arms of His Majesty's dominions in Germany ensigned with the Hanoverian royal crown and that the standard of the said United Kingdom should be the same quarterings as by His Majesty's said proclamation were declared to be the arms or ensigns armorial of the said United Kingdom, with the escocheon of pretence ensigned with the said Hanoverian crown instead of the electoral bonnet; and whereas, upon the demise of His late most sacred Majesty the German dominions of His late Majesty have passed from the crown of the United Kingdom of Great Britain or [*sic*] Ireland, and devolved upon His Royal Highness Prince Ernest Augustus Duke of Cumberland, now King of Hanover:

We have thought fit, by and with the of Our Privy Council, to declare that henceforth the shield or escocheon of pretence representing His late Majesty's dominions in Germany, and ensigned with the Hanoverian royal crown, shall be omitted, and the shield left to contain the arms or ensigns armorial of the United Kingdom of Great Britain and Ireland only; but, nevertheless, it is Our will and pleasure that all such gold, silver, and copper moneys as on the day before the twenty-sixth day of this instant July were current and lawful moneys of Great Britain, and all such gold, silver, and copper moneys as shall on or after this day be coined by Our authority with the like impressions, until Our will and pleasure shall be otherwise declared, shall be deemed and taken to be current and lawful moneys of the said United Kingdom in Great Britain; and that all such gold, silver, and copper moneys as on the day before the twenty-sixth day of this instant July were lawful moneys of Ireland, and all such gold, silver, and copper moneys as shall on or after this day be coined by Our authority, with like impressions, until Our will and pleasure shall be otherwise declared, shall be deemed and taken to be current and lawful moneys of the said United Kingdom in Ireland; and all such moneys as shall have been coined for, and issued in, any of the dominions of the said United Kingdom, and declared by royal proclamation to be current and lawful money of such dominions respectively, bearing His late Majesty's arms or ensigns armorial, or any part or parts thereof and all moneys which shall hereafter be coined and issued according to such proclamations, shall continue to be lawful and

current money of such dominions respectively, notwithstanding such change in Our arms or armorial bearings respectively as aforesaid, until Our pleasure shall be further declared thereupon, and all and every such moneys as aforesaid shall be received and taken in payment in Great Britain and Ireland respectively, and in the dominions thereunto belonging, after the date of this proclamation, in such manner, and as of the like value and denomination, as the same were received and taken before the date hereof: and it is also Our will and pleasure that the several dies and marks which have been used to denote the stamp duties, and all other stamps and marks and instruments which before the issuing of this proclamation, shall be in actual use for Any public purpose, and in which His late Majesty's arms or ensigns armorial, or any parts or part thereof respectively may be expressed, shall not by reason of this proclamation, or anything therein contained, be changed or altered until the same may be conveniently so changed or altered, or until Our pleasure shall be further declared thereon; but that all such dies, stamps, marks, and instruments, respectively bearing His late Majesty's arms or ensigns armorial, used before this twenty-sixth day of July instant, or any parts or part of such arms or ensigns armorial, shall have the like force and effect as the same had before the said twenty-sixth day of July instant.

Given at Our Court at Buckingham Palace, the twenty-sixth day of July, one thousand eight hundred and thirtyseven, and in the first year of Our reign.

God save the Queen.

**An Act to provide for the alteration of the Royal Style and Titles and of the Style of Parliament and for purposes incidental thereto.**

**17 Geo. 5. c. 4 [12th April 1927.]**

section 1 repealed, SLR 1950; section 2 repealed in part, SL(R) 1977, c. 18, s. 1(1), sch. 1 pt. XIX: Interpretation, 1978, c. 30 s 25(1), sch. 3

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 this present Parliament assembled, and by the authority of the same, as follows :—

1. It shall be lawful for His Most Gracious Majesty, by His Royal Proclamation under the Great Seal of the Realm, issued within six months after the passing of this Act, to make such alteration in the style and titles at present appertaining to the Crown as to His Majesty may seem fit.

2.-(1) Parliament shall hereafter be known as and styled the Parliament of the United Kingdom of Great Britain and Northern Ireland; and accordingly, the present Parliament shall be known as the Thirty-fourth Parliament of the United Kingdom of Great Britain and Northern Ireland, instead of the Thirty-fourth Parliament of the United Kingdom of Great Britain and Ireland.

(2) In every Act passed and public document issued after the passing of this Act the expression "United Kingdom" shall, unless the context otherwise requires, mean Great Britain and Northern Ireland.

3. This Act may be cited as the Royal and Parliamentary Titles Act, 1927.

**PROCLAMATION**

**by His Majesty the King altering the Style and Titles appertaining to the Crown.**

**London, May 13, 1927.**

(British and Foreign State Papers, vol. 126, p. 44; citing the "London Gazette," May 13, 1927.)

George R.I.

WHEREAS by "The Royal and Parliamentary Titles Act, 1927," it is enacted that it shall be lawful for us by our Royal Proclamation under the Great Seal of the Realm issued within 6 months after the passing of the said Act to make such alteration in the style and titles at present appertaining to the Crown as to us may seem fit;

And whereas our present style and titles are, in the Latin tongue, "Georgius, V Dei Gratia Britanniarum et terrarum transmarinarum quae in ditioe sunt Britannica Rex, Fidei Defensor, Indiae Imperator," and in the English tongue. "George V by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India";

And whereas we have received a recommendation from the representatives of our Governments, in conference assembled that our style and titles should be altered as in manner hereinafter appearing:

We have thought fit, and we do hereby appoint and declare, by and with the advice of our Privy Council, that: henceforth so far as conveniently may be, on all occasions and in all instruments wherein our style and titles are used, the following alteration shall be made in the style and titles at present appertaining to the Crown, that is to say, in the Latin tongue, for the word - Britanniarum - there shall be substituted the words - Magnae Britanniae, Hiberniae," and in the English tongue, for the words "the United Kingdom of Great Britain and Ireland and of" the words "Great Britain, Ireland and".

Given at our Court at Buckingham Palace, this 13th day of May, in the year of our Lord 1927, and in the 18th year of our reign.

God Save the King.

### **Kings v Casement 1917 1 K.B. 98**

#### **KING'S BENCH DIVISION AND COURT OF CRIMINAL APPEAL**

Criminal Law – High Treason – Adhering to the King's Enemies – Adherence without the Realm – Aid and Comfort – Treason Act, 1351 (25 Edw. 3, stat. 5, c. 2).

By the Treason Act, 1351, it is declared that if a man do levy war against our Lord the King in his realm, or be adherent to the enemies of our Lord the King in the realm, giving to them aid or comfort in his realm or elsewhere, and thereof be probably attainted of open deed, that ought to be adjudged treason:-

Held by the Court of Criminal Appeal, affirming the King's Bench Division, that if a British subject be adherent to the King's enemies in his realm by giving to them aid or comfort in his realm, or if he be adherent to the King's enemies elsewhere by giving them aid or comfort elsewhere, he is equally adherent to the King's enemies, and if he is adherent to the King's enemies he commits treason as defined by the Act.

Held by the King's Bench Division, that if a British subject does an act which strengthens or tends to strengthen the enemies of the King in the conduct of a war against the King, or which weakens or tends to weaken the power of the King and of the country to resist

or attack the enemies of the King and country, he gives aid and comfort to the King's enemies within the meaning of the Act.

Therefore, the United Kingdom being at war with the Empire of Germany, where a British subject went to Germany and there endeavoured to persuade other British subjects, who were prisoners of war in Germany, to join the armed forces of the enemy, and took part in an attempt to land arms and ammunition in Ireland for the use of the enemy:-

Held by the King's Bench Division and by the Court of Criminal Appeal that he was guilty of high treason.

#### **PROMMISORY OATHS ACT 1868 UK**

<http://www.legislation.gov.uk/ukpga/Vict/31-32/72/contents>

#### **2.**

##### **Form of oath of allegiance.**

The Oath in this Act referred to as the Oath of Allegiance shall be in the Form following; that is to say,

I \_\_\_\_\_ 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.'

##### **Form of oath of office.**

3The Oath in this Act referred to as the Official Oath shall be in the Form following; that is to say,

I \_\_\_\_\_do swear that I will well and truly serve Her Majesty Queen Victoria in the Office of \_\_\_\_\_ ' So help me GOD.'

#### **7. Penalty for taking incorrect Oath**

If any Officer specified in the Schedule hereto declines or neglects, when any Oath required to be taken by him under this Act is duly tendered, to take such Oath, he shall, if he has already entered on his Office, vacate the same, and if he has not entered on the same be disqualified from entering on the same; but no Person shall be compelled, in respect of the same Appointment to the same Office, to take such Oath or make such Affirmation more Times than One.

#### **Letters Patent 1900**

V. The Governor General may on Our behalf exercise all powers under the Commonwealth of Australia Constitution Act, 1900, or otherwise in respect of the summoning, proroguing, or dissolving the Parliament of Our said Commonwealth.

#### **Project Blue Sky**

Invalidity and the evolution of consequences for unlawful administrative action

<http://www.fedcourt.gov.au/publications/judges-speeches/justice-perram/perram-j-20121120>

#### **HIGH COURT RULES 1901**

Commonwealth Statutory Rules 1901-1956

Volume 3 - Judiciary to Navigation



## Commencement

2. These Rules shall come into operation on the first day of January 1953, and shall apply to all proceedings and appeals commenced or instituted on or after that date.

## Interpretation

Amended by 1953, No 46

5. In these Rules, unless the contrary intention appears---

“Act” means---

- a) An Act of the Parliament of the United Kingdom which is in force in the Commonwealth or in a part of the Commonwealth;
- b) An Act of the Parliament of the Commonwealth;
- c) An Act of the Parliament of a State; and
- d) An Ordinance in force in a State or Territory;

## **COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 58**

### **Royal assent to Bills**

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.

### Recommendations by Governor-General

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.

## **CROWN COPYRIGHT ACT 1911 UK**

### **6 Civil remedies for infringement of copyright**

- 1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.
- 2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the court.
- 3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—
  - a. if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;
  - b. if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed

or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

### **31 Abrogation of common law rights**

No person shall be entitled to copyright or any similar right in any literal, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

### **32 Provisions as to Orders in Council**

- 1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.
- 2) Every Order in Council made under this Act shall be published in the London Gazette and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

## **CRIMES ACT 1914 (Commonwealth)**

### **3A Operation of Act**

This Act applies throughout the whole of the Commonwealth and the Territories and also applies beyond the Commonwealth and the Territories.

### **24F Certain acts done in good faith not unlawful**

- 1) Nothing in the preceding provisions of this Part makes it unlawful for a person:
  - a. to endeavour in good faith to show that the Sovereign, the Governor-General, the Governor of a State, the Administrator of a Territory, or the advisers of any of them, or the persons responsible for the government of another country, has or have been, or is or are, mistaken in any of his, her or their counsels, policies or actions;
  - b. to point out in good faith errors or defects in the government, the constitution, the legislation or the administration of justice of or in the Commonwealth, a State, a Territory or another country, with a view to the reformation of those errors or defects;
  - c. to excite in good faith another person to attempt to procure by lawful means the alteration of any matter established by law in the Commonwealth, a State, a Territory or another country;
  - d. to point out in good faith, in order to bring about their removal, any matters that are producing, or have a tendency to produce, feelings of ill-will or hostility between different classes of persons; or
  - e. to do anything in good faith in connexion with an industrial dispute or an industrial matter.
- 2) For the purpose of subsection (1), an act or thing done:
  - a. for a purpose intended to be prejudicial to the safety or defence of the Commonwealth;
  - b. with intent to assist an enemy:
    - i. at war with the Commonwealth; and

- ii. specified by proclamation made for the purpose of paragraph 80.1AA(1)(b) of the *Criminal Code* to be an enemy at war with the Commonwealth;
- b. with intent to assist:
  - i. another country; or
  - ii. an organisation (within the meaning of section 100.1 of the *Criminal Code*);
 that is engaged in armed hostilities against the Australian Defence Force;
- c. with intent to assist a proclaimed enemy, as defined by subsection 24AA(4) of this Act, of a proclaimed country as so defined;
- d. with intent to assist persons specified in paragraphs 24AA(2)(a) and (b) of this Act; or
- e. with the intention of causing violence or creating public disorder or a public disturbance; is not an act or thing done in good faith.

### **68. Forging Official Marks**

Any person who, without lawful authority (proof whereof shall lie upon him.) and with intent to deceive, makes any mark resembling, or apparently intended to resemble or pass for, any authorized official stamp or mark of any Department of the Commonwealth or of any public authority under the Commonwealth, shall be guilty of an offence.

Penalty : Imprisonment for two years.

### **Public Governance, Performance and Accountability Act 2013** No. 123, 2013 as amended

#### **10 Commonwealth entities**

- 1) A *Commonwealth entity* is:
  - a. a Department of State; or
  - b. a Parliamentary Department; or
  - c. a listed entity; or
  - d. a body corporate that is established by a law of the Commonwealth; or
  - e. a body corporate that:
    - i. is established under a law of the Commonwealth (other than a Commonwealth company); and
    - ii. is prescribed by an Act or the rules to be a Commonwealth entity.

Note: Commonwealth companies are not Commonwealth entities because they are not covered by this subsection. Chapter 3 deals with Commonwealth companies.

- (2) However, the High Court and the Future Fund Board of Guardians are **not Commonwealth entities.**

### **INTERNATIONAL ARBITRATION ACT 1974 - SECT 16** **Model Law to have force of law**

- 1) Subject to this Part, the Model Law has the force of law in Australia.
- 2) In the Model Law:

**"arbitration agreement"** has the meaning given in Option 1 of Article 7 of the Model Law.  
**"State"** means Australia (including the external Territories) and any foreign country.  
**"this State"** means Australia (including the external Territories).

## CHAPTER II ARBITRATION AGREEMENT - Option I

"The Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration."

Article 7 - Definition and form of arbitration agreement (As adopted by the Commission at its thirty-ninth session, in 2006)

- 1) "Arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
- 2) The arbitration agreement shall be in writing.
- 3) An arbitration agreement is in writing if its content is recorded in any form, whether or not the arbitration agreement or contract has been concluded orally, by conduct, or by other means.
- 4) The requirement that an arbitration agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference; "electronic communication" means any communication that the parties make by means of data messages; "data message" means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not Part One. UNCITRAL Model Law on International Commercial Arbitration 5 limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy.
- 5) Furthermore, an arbitration agreement is in writing if it is contained in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other.
- 6) The reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is such as to make that clause part of the contract.

### Australia Act UK 1986 1986 Chapter 2

[http://www.legislation.gov.uk/ukpga/1986/2/pdfs/ukpga\\_19860002\\_en.pdf](http://www.legislation.gov.uk/ukpga/1986/2/pdfs/ukpga_19860002_en.pdf)

An Act to give effect to a request by the Parliament and Government of the Commonwealth of Australia

[17th February 1986]

WHEREAS the Parliament and Government of the Commonwealth of Australia have, with the concurrence of the States of Australia, requested and consented to the enactment of an Act of the Parliament of the United Kingdom in the terms hereinafter set forth : 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) 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 to a Territory as part of the law of the Commonwealth, of the State or of the Territory

15)

- 1) This Act or the Statute of Westminster 1931, as amended and in force from time to time, in so far as it is part of the law of the Commonwealth, of a State or of a Territory, may be repealed or amended by an Act of the Parliament of the Commonwealth passed at the request or with the concurrence of the Parliaments of all the States and, subject to subsection (3) below, only in that manner.
- 3) Nothing in subsection (1) above limits or prevents the exercise by the Parliament of the Commonwealth of any powers that may be conferred upon that Parliament by any alteration to the Constitution of the Commonwealth made in accordance with section 128 of the Constitution of the Commonwealth after the commencement of this Act.

16) (1) In this Act ---

"the Commonwealth " means the Commonwealth of Australia as established under the Commonwealth of Australia Constitution Act ;

"the Constitution of the Commonwealth " means the Constitution of the Commonwealth set forth in section 9 of the Commonwealth of Australia Constitution Act 1900, being that Constitution as altered and in force from time to time ;

17)

- 1) This Act may be cited as the Australia Act 1986.
- 2) This Act shall come into force on such day and at such time as the Secretary of State may by order made by statutory instrument appoint.

### **The Australia Act 1986 (Commencement) Order 1986**

[http://www.legislation.gov.uk/ukxi/1986/319/pdfs/ukxi\\_19860319\\_en.pdf](http://www.legislation.gov.uk/ukxi/1986/319/pdfs/ukxi_19860319_en.pdf)

In pursuance of section 17(2) of the Australia Act 1986(a), I hereby make the following Order:---

- 1) This Order may be cited as the Australia Act 1986 (Commencement) Order 1986.
- 2) The Australia Act 1986 shall come into force on the 3<sup>rd</sup> March 1986, at five o'clock, Greenwich mean-time, in the morning.

### **Australia (Request and Consent) Act 1985, No 143 of 1985**

<https://www.comlaw.gov.au/Details/C2004A03182>

An Act to request, and consent to, the enactment by the Parliament of the United Kingdom of an Act in the terms set out in the Schedule to this Act

[Assented to 4 December 1985]

The Parliament of Australia enacts:

WHEREAS the Prime Minister of the Commonwealth and the Premiers of the States at conferences held in Canberra on 24 and 25 June 1982 and 21 June 1984 agreed on the taking of certain measures 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:

BE IT THEREFORE ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

1) Termination of power of Parliament of United Kingdom to legislate for Australia

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 to a Territory as part of the law of the Commonwealth, of the State or of the Territory.

17) Citation and commencement

- a. This Act may be cited as the Australia Act 1986.
- b. This Act shall come into force on such day and at such time as the Secretary of State may by order made by statutory instrument appoint.

**Australia Act 1986 (Commonwealth)**

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

WHEREAS the Prime Minister of the Commonwealth and the Premiers of the States at conferences held in Canberra on 24 and 25 June 1982 and 21 June 1984 agreed on the taking of certain measures 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: of all the States have AND WHEREAS in pursuance of paragraph 51 (xxxviii) of the Constitution the Parliaments requested the Parliament of the Commonwealth to enact an Act in the terms of this Act:

BE IT THEREFORE ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

- 1) Termination of power of Parliament of United Kingdom to legislate for Australia 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 to a Territory as part of the law of the Commonwealth, of the State or of the Territory.

16) Interpretation

- 1) In this Act, unless the contrary intention appears:

***the Commonwealth of Australia Constitution Act*** means the Act of the Parliament of the United Kingdom known as the Commonwealth of Australia Constitution Act.

***the Constitution of the Commonwealth*** means the Constitution of the Commonwealth set forth in section 9 of the Commonwealth of Australia Constitution Act, being that Constitution as altered and in force from time to time.

17) Short title and commencement [see Note 1]

- 1) This Act may be cited as the Australia Act 1986.
- 2) This Act shall come into operation on a day and at a time to be fixed by Proclamation.

NOTE 1

The Australia Act 1986 as shown in this compilation comprises Act No. 142, 1985 amended as indicated in the Tables below.

Australia Act 142 of 1985, 4<sup>th</sup> December 1985, Date of Commencement (a)