

AUSTRALIA revealed

May 1999

These are the historical facts and the internationally recognised legal position relating to each historical event in the Australian colonies as it occurred.

New South Wales named by Captain James Cook in 1770.

New South Wales declared a British Colony in the name of His Britannic Majesty, King George III on 26th January 1788. Sovereignty over British Colonies is vested in the monarch therefore no change in the legal position occurred in 1801 when the United Kingdom was first formed.

On the death of George III of the United Kingdom in 1820, sovereignty over the Colony of New South Wales was vested in the new monarch - George IV. By his death in 1837, the Colony of New South Wales was already divided into three distinct colonies - New South Wales, Van Diemen's Land (Tasmania) and South Australia. On his death sovereignty was transferred to the new monarch Queen Victoria.

New South Wales was divided into five colonies by 1859.

Van Diemen's Land (Tasmania) - 1825

South Australia - 1836

Victoria - 1850

Queensland - 1859

Western Australia - 1829 founded as a separate colony

All colonial boundaries were completed by 1863.

Colonial Constitutions and the source of their relevant authority.

New South Wales - New South Wales Constitution Act 1855 (UK)

Victoria - Victoria Constitution Act 1855 (UK)

Tasmania - Australian Colonies Government Act 1850 (UK) - in 1855

South Australia - Australian Colonies Government Act 1850 (UK) - in 1856

Queensland - British Order in Council - in 1859

Western Australia - Western Australia Constitution Act 1890 (UK)

The colonies had authority to repeal or alter the contents of their constitutions. The United Kingdom Government well aware the colonies could not repeal the Act itself nor repeal any significant part of the Act without removing their own legislative power.

Earl Grey - Colonial Secretary 1846-1852, included provision for a central Australian authority with limited competence in the first draft of the Australian Colonies Government Act 1850 (UK). Grey's initiative was strongly criticised in Australia, but the Sydney and Melbourne leaders in their draft counter suggestions made similar if vaguer suggestions. The colonists were nearly as suspicious of possible central Australian authorities however modestly conceived, as they were of control from London.

Further attempts by the British Government to develop a centralised system of government in the Australian colonies for the purpose of mutual defence were met with stern resistance until the final decade of the nineteenth century when the colonists became perturbed by the continued German and Japanese presence in the Pacific region.

Colonies to a colonial federation and the relevant legal authority.

An "Act to Constitute the Commonwealth of Australia 1900 (UK)", the full title of the Commonwealth of Australia Constitution Act, allegedly assented to by Queen

Victoria on 9th July 1900, and proclaimed on 17th September 1900, was the legal instrument by which the colonial federation of the Commonwealth of Australia became a legal entity. Queen Victoria was exercising her lawful sovereignty over the Australian colonies. A prominent Australian QC claims Queen Victoria did not validly give the Royal Assent to the Act, the Proclamation and Letters Patent as required by law as she was too ill. His source is written advice from the House of Lords, *The Constitutional History of England* by Professor F. W. Maitland pages 422 and 423, *English Constitutional History, Second Edition*, by Professor S. B. Cranes at page 13. Although Australia was granted a copy of this document by an Act of the United Kingdom Parliament in 1990, this copy does not indicate valid assent.

The preamble of this Act proclaims the Commonwealth to be “under the Crown of the United Kingdom of Great Britain and Ireland”. This legal entity ceased to exist as at 15th January 1922 when the Anglo-Irish Treaty was ratified. The Attorney-General of Eire states “The United Kingdom was unable to change the preamble because the Commonwealth of Australia was already acknowledged internationally as an independent sovereign nation”. The ratification of the *Treaty of Versailles* by the parliament of the Commonwealth of Australia is recognised under international law as the date of Australia's independence (Hansard of the Commonwealth of Australia 10th September 1919 - 1st October 1919).

Under Clause 6 of *An Act to Constitute the Commonwealth of Australia 1900 (UK)* the colonies ceased to exist as legal entities. They became States of the Commonwealth of Australia while retaining their original constitutions. Under Clause 8, The Commonwealth of Australia remained a colony of the United Kingdom.

Queen Victoria died on 22nd January 1901. Sovereignty over the colonial federation of the Commonwealth of Australia passed to her successor - King Edward VII. King George V succeeded him on his death in 1910.

In 1911 a resolution was passed by the Parliament of the United Kingdom changing the name from the Colony of the Commonwealth of Australia to the Dominion of the Commonwealth of Australia without change in legal status. (source - British Foreign Office) At midnight on 4th August 1914, King George V declared war on Germany in the name of the British Empire including his Dominion of the Commonwealth of Australia, a colony of the United Kingdom.

As a colony of the United Kingdom, Australia was excluded from taking part in signing the armistice with Turkey in Palestine on 30th October 1918 and the general armistice with the allies on 11th November 1918 despite an earlier agreement with the UK.

Colonial Federation to Independent Sovereign Nation and the relevant legal authority.

Article IX of the 1917 Imperial War Conference declared the Dominion of the Commonwealth of Australia to be an 'autonomous nation'. It is doubtful this declaration alone although published internationally possessed the requisite legal power to pass sovereignty from the monarch of the United Kingdom to the Australian People. This conference recognised that “Constitutional changes were required with regard to the change in status of the Dominions”, however these changes would have to be addressed after the end of the war.

The Commonwealth of Australia signed the *Peace Treaty of Versailles* on 28th June 1919 as a belligerent nation in its own right - its first act as an independent sovereign nation. Both international and domestic law acknowledges this document as the legal instrument that transferred sovereignty from King George V to the Australian People. The Commonwealth of Australia was then an independent, sovereign nation (Hansard

10 Sep 1919 - 1 Oct 1919). The legal power to enter into international treaties is possessed by sovereign nations alone. The Commonwealth of Australia joined the International Labour Organisation and the League of Nations in 1919, sovereignty being the fundamental requirement for entry.

As at 1st October 1919, the Commonwealth of Australia as a new legal entity ceased to be under the Crown of the United Kingdom of Great Britain and Ireland. The *Treaty of Peace Act 1919* which was assented to on 28th October 1919 incorporated the *Peace Treaty of Versailles* into the laws of the Commonwealth of Australia.

Sir Geoffrey Butler KBE, MA and Fellow, Librarian and Lecturer in International Law and Diplomacy of Corpus Christi College, CAMBRIDGE, author of "[A Handbook to the League of Nations](#)", made the following statement in 1920. He refers to Article I of the Covenant of the League of Nations.

"It is arguable that this Article is the Covenant's most significant single measure. By it the British Dominions, namely, New Zealand, Australia, South Africa, and Canada, have their independent nationhood established for the first time. There may be friction over small matters in giving effect to this internationally acknowledged fact, but the Dominions will always look to the League of Nations Covenant as their Declaration of Independence." (source - Annotated Covenant of the League of Nations - League of Nations archives - Geneva, Switzerland).

As sovereignty had passed from the King of the United Kingdom, George V, to The People of the Commonwealth of Australia, the colonial federation of the Commonwealth of Australia ceased to exist as a legal entity and became part of Australia's colonial past. The legislation authorising this colonial federation was no longer tenable within the sovereign territory of the Commonwealth of Australia. Because of this, the States too as an integral part of the colonial federation of the Commonwealth of Australia became part of its colonial history as the authority for their existence was now extinct as were their colonial constitutions.

Under the Law of State Succession, the Australian politicians had failed to produce a document of sovereignty following independence. They have continued to use the legally invalid *An Act to Constitute the Commonwealth of Australia 1900 (UK)* as a document of sovereignty contrary to every known legal principle in domestic and international law.

The "*Act to Constitute the Commonwealth of Australia 1900 (UK)*" was legally valid only so long as the Commonwealth of Australia remained a colony of the United Kingdom and the monarch, George V was exercising his lawful sovereignty over the colony. As sovereignty now rested with the Australian People, the current political and judicial system in use in the Commonwealth of Australia is without legal foundation. The colonial federation of the Commonwealth of Australia existed from 9th July 1900 through to 30th September 1919.

The entry below appears in a Commonwealth document titled *Commonwealth Power to Make and Implement Treaties* paragraph 4.13. Other entries in the same document make the point that treaties in the name of the Commonwealth of Australia signed by the government of the United Kingdom are no longer valid.

"After the First World War, Australia was separately represented at the Peace Conference, and the Dominions began to exercise greater powers in the area of external affairs. Australia became an independent member of the League of Nations and the International Labour Organisation in 1919. In both these, the Dominions were given separate votes and their representatives were accredited by, and responsible to, their own Dominion Governments, rather than the Imperial Government. They did not always vote in the same manner as Great Britain. 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.”

The Commonwealth of Australia became an independent Member State of the League of Nations on the 10th of January, 1920 when the League became part of international law. Declaration of Rights 1921 given by Mr. Lloyd George, Prime Minister of the United Kingdom at the 1921 Imperial Conference. “In recognition of their services and achievements in the war, the British Dominions have now been accepted into the “Comity of Nations” by the whole world. They have achieved full nation status, and they now stand beside the United Kingdom as equal partners in the dignities and responsibilities of the British Commonwealth.....”

Similar statements were made in their respective parliaments in 1919 by Sir Robert Borden and General Smuts, respectively, Prime Ministers of Canada and the Union of South Africa.

The 1923 Imperial Conference held in London declared the “Dominions” were autonomous nations with the power to enter into international treaties.

The British Commonwealth of Nations was formed with Great Britain and the Dominions as equal partners in all respects.

The 1929 report of the Royal Commission on the Constitution stated the same as the 1923 Imperial Conference under the heading: Status of Great Britain and the Dominions. Their position and their mutual relationship may be readily defined. They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations.

In 1945 the Commonwealth of Australia became a foundation Member State of the United Nations. The Charter of the United Nations was incorporated into the laws of the Commonwealth of Australia by an Act of the Parliament of the Commonwealth of Australia - Charter of the United Nations Act 1945 duly assented to on 22nd October 1945. The current political system in use in the Commonwealth of Australia with assent for all bills signed by the Governor General or State Governors who are the representatives of Queen Elizabeth II or the “Queen of Australia” is quite impossible to uphold historically or legally under British domestic or international law.

Neither King George VI nor Queen Elizabeth II who succeeded him to the throne of the United Kingdom in 1952 has ever held sovereignty over the Commonwealth of Australia, as a colony, a colonial federation or as an independent sovereign nation.

Acts assented to in the name of Elizabeth II of the United Kingdom or the “Queen of Australia” are invalid in both British domestic and international law. The United Nations Charter, a superior legal document prevents interference with the sovereignty of a Member State. The Charter also effectively prevents the usage of, and any change to current law of the Parliament of the United Kingdom by the Australian government or the Australian People.

ROYAL ASSENT (source - The Royal line of Succession - Debrett's Peerage, P14 - 17).

“Following the execution of Charles I in 1649, for the first time in its history, Britain did not have a monarch. The British Parliament passed a measure declaring Britain to be a Commonwealth. Britain was a republic until 1660. Finally, in 1701 the Act of Settlement was passed by the British Parliament granting the status of a British citizen to the Protestant heirs of Mary II and her husband, William III of the House of

Orange. Catholics with better claims to the throne were passed over in accordance with the terms of the Act of Settlement”.

“In 1714, George I, the Elector of Hanover became the first king to rule under the 1701 Act of Settlement. Both George I and George II were regarded in Britain as foreigners. George III (1760-1820) was the first of this imported lineage to be born in England. The current Royal Family reigns under the terms of this Act. Certainly, it is within the power of the Parliament of the United Kingdom to repeal the Act. The monarch reigns at the pleasure of the Parliament, not as a descendant of a ruling British lineage or divine rule”. As stated by Sir Kenneth McCaw QC, “The monarch in the United Kingdom is a constitutional monarch who occupies the throne by virtue of an Act of Parliament and bears a title conferred by that Act.”

At P15 ' People Versus Power' by Sir Kenneth M. McCaw QC (ISBN 0 03 900161 X).

The monarch and the monarch's representatives (State Governors/Governor General) are limited by the current legislative power of the Parliament of the United Kingdom which under domestic and international law excludes the right to bestow the power of assent to bills within the sovereign territory of the Commonwealth of Australia, a Member State of the United Nations, nor can this power of assent be bestowed by a government which is itself subordinate to Clause 9 of an Act that is current domestic legislation of the Parliament of the United Kingdom. Power of assent is a 'sovereign power' held by the Australian People alone. Even they cannot bestow this power upon a citizen who is subordinate to the British Parliament. A nation's sovereignty is not negotiable under domestic and international law!

The *Statute of Westminster 1931(UK)*, the *Australia Act 1986(UK)* and the *Australia Act 1986(AUS)* have no legal basis in domestic or international law. As sovereignty rested with the Australian People by 1919, the United Kingdom parliament did not have authority to legislate for Australia even if so requested by the 'parliament' of the extinct colonial federation of the Commonwealth of Australia. *Articles XVIII* and *XX* of the *Covenant of the League of Nations* (1920-1946), invalidates the usage of the laws of Member States within the sovereign territory of other Member States in the same manner as the *Charter of the United Nations* (1945-?) does today - *Articles 2.1,2.4,102* and *103*.

The Office of Legal Affairs of the Secretary General of the United Nations states, “Under international law, the law of a Member State of the United Nations may be used within the sovereign territory of another Member State only by means of a treaty duly registered with the United Nations. Any such treaty must not infringe upon the sovereignty of either Member State in accordance with the Charter of the United Nations”.

The International Court of Justice in written advice states “The fundamental principle of international law tried and tested since 1872 is that international law prevails over domestic law. Where domestic or municipal law is contrary to international law, then international law takes precedence over domestic or municipal law. It is a generally accepted principle of international law that in the relations between Powers who are contracting Parties to a treaty, the provisions of municipal law cannot prevail over those of the treaty”.

A plethora of legal precedence exists relating to the above. Most documents from the International Court of Justice refer to the position of international law with regard to domestic or municipal law. The Republic of Chile exercised their rights under international law in a recent case in Melbourne. For once, the Magistrate was aware of

the superiority of international law over domestic law and ruled in accordance with it.

There is a belief among lawyers in the Commonwealth of Australia that international law applies within domestic law only after the parliament has legislated for same. This belief is erroneous as the above amply demonstrates. *An Act to Constitute the Commonwealth of Australia 1900 (UK)* is current domestic law of the Parliament of the United Kingdom. With respect to the Commonwealth of Australia, this Act cannot become part of its domestic law.

As outlined in 'A Shorter History of Australia' (ISBN 0 85561 599 0) by Professor Geoffrey Blainey on page 160 - "When the assembly of the League of Nations met for the first time at Geneva in November 1920, Australia was one of the forty-two nations represented as full members. The Statute of Westminster, passed by the British Government in 1931, was formally to give Australia an independence it already possessed."

The Constitutional Convention's proposed changes to current domestic legislation of the Parliament of the United Kingdom can now be seen as totally untenable within the concepts of domestic and international law. In 1935, a joint committee of the House of Lords and the House of Commons, when examining the petition of the government of the State of Western Australia for secession from the Commonwealth, left no doubt as to the legal position of the Commonwealth and State governments with relation to *An Act to Constitute the Commonwealth of Australia*. The preamble and the Covering Clauses were the sole prerogative of the Parliament of the United Kingdom and operated separately from and independently of Clause 9 - The Constitution! The organisation and administration aspects, state and federal were confined to Clause 9 - the government and the judiciary.

The government of the United Kingdom states;

"*An Act to Constitute the Commonwealth of Australia 1900 (UK)* is current legislation of the Parliament of the United Kingdom. The UK parliament has the undenied authority to repeal this Act with or without the consent of Australia. The preamble and covering clauses of this Act may be altered only by an Act of the Parliament of the United Kingdom. The government of the colonial federation of the Commonwealth of Australia was restricted to the conditions under Covering Clause 9 of this Act - the Constitution"

A recent UK document (11th December 1997) received from the British Foreign Office confirms this position.

The current position in domestic and international law is clearly stated by two eminent members of the Australian legal academe in their book - *International Legal System: Cases & Materials* (ISBN 0409436003) G. A. Brennan, LL.B (Hon) (Melb.), LL.M. (Lond.), Dip. Int.& Comp Air Law (Lond.) - Senior Lecturer in Law at Melbourne University and W. E. Holder, B.A. LL.B (Hons) (Melb.), LL.M.(Yale), Dip. Int. Law (Hague) - Senior Lecturer in Law at the Australian National University - Canberra - 1972. : Foreword by Chairs of International Law (Yale & London).

Page 75: "From 1917 onwards and following the peace discussions, Australia became an independent minor country similar to Belgium. Theoretically by 1919 it was a totally independent country. In practice sadly, this fact lagged behind theory."

Note the superior academic post graduate qualifications including international law of the above two authors! Download the CVs of the current batch of High Court judges as available on the Internet and compare with these two authors. Note the difference in academic levels.

Comment: How then has the myth that Australia became an independent nation on 1st January 1901 been perpetrated and for what reason? Why haven't Australians been told the truth about their historical and legal heritage? Why does the celebration of a long dead colonial federation of the Commonwealth of Australia take precedence while other nations celebrate their Independence Day? Could maintaining the 'status quo' be the answer?

The actual comments made by the forefathers of the Constitution have been hidden away in the archives. Indeed, the original annotated Constitution with comments by two of the lawyers who helped write the document hasn't seen light of day since it was written in 1901. The first reprint at \$199 by Legal Books in 1995 was not for public consumption. (*Editors note: Quick and Garran's "Annotated Constitution of the Australian Commonwealth" was reprinted in 1976 with a foreword by Professor Geoffrey Sawer, B.A., LL.M. Professor Emeritus of the Australian National University, Visiting Fellow in the Faculty of Law at the Australian National University. I know this to be a fact as I have the original copy that was used for the reprint and bought it from The Law Book Company in the middle eighties for \$200.*)

I quote from Page 17 of The Australian Constitution published in 1997 by the Constitutional Centenary Foundation with the annotated text by Professor Cheryl Saunders of Melbourne University "Australia became an independent nation in 1901". I. M. Cumpston, Emeritus Reader in Commonwealth History, University of London begs to differ "The Commonwealth of Australia as a colony of the UK had limited self-government in 1901" at P3 of History of Australian Foreign Policy 1901-1991 Volume one. One need only refer to the eighth Clause in the "Preamble" to the "Act to Constitute the Commonwealth of Australia 1900 (UK)" to understand the status of the "Commonwealth" in 1901;

8 Application of Colonial Boundaries Act

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

Her most recent book "It's Your Constitution", Saunders falls far short of the expected legal argument emanating from the Director for the Centre of Constitutional Studies, University of Melbourne. An example on p.24 of this book is almost unbelievable "Some of the constitutional powers of the Queen are undoubtedly colonial in character, however, and would not have been included in a Constitution for an independent Australia. The most well known of these is section 59 which gives the Queen power to overrule or "disallow" any Commonwealth law within one year after it has been made. The power has never been used and certainly would not be used now".

One wonders if we are living on the same planet as this academic - what happened to the sovereignty of The People in this independent nation? She is describing a Parliamentary Monarchy not an independent sovereign democracy! On p.8 of the same book she states "But this is a democracy, in which government is "by The People". Somewhere between p.8 and p.24 "The People" appear to have lost their sovereignty. She doesn't discuss by what means the Queen or her representative continues to assent to bills under section 58 of the same document!

One would think a highly paid public servant such as Saunders and her colleagues could spend some time investigating the validity of using current British domestic legislation within Australian sovereign territory. The colonial federation of the Commonwealth of Australia metamorphosed into the sovereign nation of the

Commonwealth of Australia eighty-six years ago! The evidence, both historical and legal is overwhelming! (*Saunders errors are many in number. LWC Ed.*)

What has the Parliament of the United Kingdom to say about these statements? “The colonial federation of the Commonwealth of Australia came into being by the authority of *An Act to Constitute the Commonwealth of Australia 1900 (UK)*. It remained a colony of the United Kingdom. The Act is current legislation of the Parliament of the United Kingdom. This parliament reserves the right to repeal its legislation with or without the consent of the Parliament of the Commonwealth of Australia”.

An Australian citizen recently wrote to the Office of the Lord Chancellor in London asking a question relating to this alleged statement by the Lord Chancellor. “*The Commonwealth of Australia Constitution Act (UK)1900* is an Act of the United Kingdom Parliament. The right to repeal this Act remains the sole prerogative of the Parliament of the United Kingdom. There is no means by which under United Kingdom or international law this power can be transferred to a foreign country or Member State of the United Nations. Indeed, the United Nations Charter itself precludes any such action. The government of the United Kingdom presented the original document of the *Commonwealth of Australia Constitution Act* to Australia in 1988 as a gesture of goodwill on its 100th anniversary”.

The reply dated 11th December 1997 from the Foreign & Commonwealth Office stated they could not trace the alleged statement by the Lord Chancellor, however they wished to correct but one item in the statement. “A copy of *An Act to Constitute the Commonwealth of Australia* was given to Australia by special Act of the Parliament of the United Kingdom in 1990 although a copy was loaned in 1988. Otherwise the statement is an accurate description of the power of the British Parliament in relation to its own legislation”.

This recent document received from the British Foreign Office offers to repeal the Act if so requested by the Commonwealth Government. Conclusively, the so called 'Australian Constitution' is current domestic legislation of the Parliament of the United Kingdom and may be dealt with by any present or future British Parliament as it deems fit. The Parliament of the United Kingdom claims full control over its own legislation.

A recent communication received from the United Kingdom states:

“The Parliament of the United Kingdom does not possess the legal authority to assent to Bills within the sovereign territory of the Commonwealth of Australia nor can it delegate any such authority. This would be inconsistent with domestic and international law. The United Kingdom recognises the Commonwealth of Australia as an independent sovereign nation and Member State of the United Nations. The United Kingdom acknowledges that Queen Elizabeth II of Great Britain reigns by the authority of the *Act of Settlement 1701*. This Act is current legislation of the Parliament of the United Kingdom. It is within the power of the parliament to repeal this Act if and when it so decides.”

I quote from Hansard of the parliament of the Commonwealth of Australia for the 10th September 1919, Pages 12169a and 12171d. The speech is by Mr. Hughes, Prime Minister and Attorney General moving this motion: "That this house approves the Treaty of Peace between the Allies and Associated Powers and Germany, signed at Versailles on 29th June 1919". “It was necessary, therefore - and the same applies to other Dominions - that we should be represented. Not as at first suggested, in a British panel, where we would take our place in rotation, but with separate

representation like other belligerent nations. Separate and direct representation was at length conceded to Australia and to every other self-governing Dominion. By this recognition Australia became a nation and entered into a family of nations on a footing of equality. The League of Nations comprises at the onset some thirty-two nations including the Dominions of the British Empire and India, and we have signed the covenant as separate nations.” The motion was unanimously passed on 1st Oct 1919.

Perhaps the situation is best explained by one of Australia's foremost historians - Russel Ward in 'A Nation for a Continent' pages 124 and 125. “Notwithstanding all his playing to the gallery, the incredible Welshman served Australia well at Versailles. He insisted that he (and Joseph Cook who was completely overshadowed by him) should represent Australia as a belligerent nation in its own right, not merely as part of the British delegation. The point was made when he signed the treaty separately on behalf of Australia. We shall see for the following twenty years a succession of conservative governments was content, in the field of foreign relations, almost to revert to Australia's earlier quasi-colonial status; but Hughes did set the precedent for independent action within the British Empire”.

Australia lost 60,000 young men in World War I. Prime Minister W. Hughes stated in the Parliament, that these men had given us our new status as a nation. The sovereign People of this great country through ignorance of its true political history and the resultant legal changes resulting from these historical events have allowed the politicians, the judiciary, the academe and the media with their huge vested personal interest in maintaining the 'status quo' to commit what can only be described as treason! There is comfort in the knowledge that over 2,000,000 Australians now know and have confirmed for themselves the above true history of this nation. Their numbers grow daily as they spread this knowledge.

The author, in early 1974 after arriving back from London with the knowledge that the Commonwealth of Australia most certainly did not become a nation in 1901, as he had been taught at school, became interested in the actual date Australia became an independent sovereign nation. The *1971 Immigration & Asylum Act (UK)* stating Australian were aliens, started him thinking. It has taken him over 25 years to unravel and document the true history of Australia. Little did he realise he was about to open a 'can of worms' of enormous proportions exposing politicians, judiciary, media and the academe, both legal and historical in what can only be described as a conspiracy beyond belief.

None could disprove or dismiss any of the facts presented. Each fact is already part of history. Instead of asking what could be done to correct these anomalies, he was asked why was he “attempting to destroy the Commonwealth”? It appears that politicians, judiciary, media and the academe are no longer interested in the truth! Even the National Library in Canberra does not contain a section on Australian Independence! This data went before Justice Hayne. J. of the High Court of Australia on 15th December 1998. Justice Hayne stated (*off of the record*) it was his duty to uphold the current system. He stated that Covering Clause 5 is valid. If this is so, then so are all the other Covering Clauses plus the preamble. The Australian People just lost their sovereignty. He has created a time warp with the Commonwealth of Australia back in time prior to 1st October 1919 as a British Colony.

The “Queen of Australia” has gone with all the international treaties and 5,500,000 migrants just lost their Australian Citizenship. Under Covering Clause 8, the Commonwealth of Australia is designated as a self-governing colony. This decision is

a total nonsense as it contradicts the Parliament of the Commonwealth of Australia - a higher court!

Malcolm Turnbull in his book "The Reluctant Republic" on page 38 states....."At the Peace Conference in Paris after the first World War, the dominions were represented - albeit as part of the British delegation.....". Turnbull hangs his hat on that erroneous statement. The rest of his book becomes irrelevant at that point. The fact that the Commonwealth of Australia was a plenipotentiary in its own right is well documented in Hansard.

Recently, the author had an in-depth discussion with a person who holds a chair of International Law at one of the USA's most prestigious universities (Stanford). "When a government of what was formerly a colony attempts to maintain colonial law past the terms of 'Uti possidetis juris'(national boundaries), it will run into many legal problems. For instance, it cannot, under international law, sign a treaty, or declare war, nor can it legislate for citizenship. It cannot join an international body nor can it make decisions as a sovereign nation within the international community. All its Acts must have some form of assent, either by the previous monarch, a representative of the monarch or perhaps the parliament of what is now under international law, a foreign country. Such a system is not workable within the newly sovereign nation and is not recognised under international law. In the case of Australia, its submission to the United Nations stated that its constitution was a sovereign document based upon British law. This was untrue, the document is not sovereign, it is current British law." Similar discussions with the Chairs of International Law at Yale, Harvard, Cambridge, London and The Hague resulted in almost identical comments with Cambridge and London confirming the statement made by the Parliament of the United Kingdom that the monarch does not possess the legal power of assent within Australia.

The Crown, as per the preamble, has not been a legal entity since 15th January 1922. The Commonwealth of Australia is a separate legal entity receiving its sovereign independence on 1st October 1919. These two items alone eliminated the sense of the Act.

Both the League of Nations Covenant and the Charter of the United Nations eliminated the rest of the Act as this quasi-colonial 'arrangement' did not comply with the requirements of either treaty, remembering that international law always takes precedence over domestic or municipal law. The administrative and organisational aspects of the "ghost" of the colonial federation of the Commonwealth of Australia are still enforced through Covering Clause 9 of *An Act to Constitute the Commonwealth of Australia 1900 (UK)*. This Act is current domestic legislation of the Parliament of the United Kingdom.

The High Court of the Commonwealth of Australia acknowledges that the "*Act to Constitute the Commonwealth of Australia*" owes its legal force to its character as a statute of the Imperial Parliament and as such its is not a document of sovereignty. The High Court then uses this document as the fundamental document of sovereignty within the Commonwealth of Australia saying that The People of the Commonwealth of Australia have agreed to be bound by it. No such plebiscite of The People of the Commonwealth of Australia has ever been conducted after the Commonwealth of Australia became an independent sovereign nation. The Australian Government Solicitor is unable to produce any such document!

As recently as 1992, a former Chief Justice of the High Court, Sir Anthony Mason, demonstrated what must be seen as a complete lack of knowledge of international law when he said "*The Australia Act 1986 (UK)* marked the end of the legal sovereignty

of the Imperial Parliament and recognised that ultimate sovereignty resided in the Australian People” 177 CLR 106 at 137-8. He was obviously unaware that the Commonwealth of Australia became a Member State of the League of Nations as at 10th January 1920 and the United Nations as at 24th October 1945. It is a rarity for a judge to have postgraduate academic qualifications. Most hold the honorary title of QC, which is irrelevant with regard to their attained academic levels. With few exceptions, their academic qualifications are the same as your average suburban solicitor a B.A., LL.B. or an LL.B. All High Court judges are political appointees.

The Australian Government Solicitor in a recent letter states “Since Australia has attained its independent status, the character of the Constitution as Australia’s fundamental law can be seen as resting predominantly on the Australian People’s decision to approve and be bound by its terms and not on the status of the Constitution as an Act of the British parliament.”

At no time since Australia attained its independent status has any such plebiscite been conducted! The statement is political rhetoric and legal “psycho-babble” as a sovereign Australia could not ‘adopt’ current law of a foreign country as its fundamental law. Such an act would contravene British domestic and international law! Both nations are Member States of the United Nations and the Charter of the United Nations precludes any such action.

How can one explain the fact that the Parliament of the Commonwealth of Australia agrees with the above facts about sovereignty and uses that sovereignty to sign international treaties? Everyone associated with international law recognises its superiority over domestic law. Article 2 (1) of the Charter of the United Nations:- The Organization is based on the principle of the sovereign equality of all its Members.

XX
XXX

The “*Act to Constitute the Commonwealth of Australia 1900 (UK)*” is documented by the British government as current domestic legislation of the Parliament of the United Kingdom. In order for a court to hear matters relating to current British domestic law the court must be empowered by the Parliament of the United Kingdom to carry out this function. The Commonwealth of Australia is an independent sovereign nation and is outside the legal jurisdiction of the Parliament of the United Kingdom. No court, federal or state, in the Commonwealth of Australia is empowered to hear matters pertaining to current British domestic law. This power ceased on 1st October 1919.

The High Court of the Commonwealth of Australia states that sovereignty rests with the Australian People. Why then are the politicians and the judiciary compelled to sign a document giving allegiance to Queen Elizabeth II of the United Kingdom, a British citizen who is subordinate to the laws of the Parliament of the United Kingdom? Politicians are told in no uncertain terms that if they do not sign, then they cannot be declared as winning the seat! Surely, any such document must be a confession of treason? Sadly, the Queen has been badly misinformed and is completely exposed to an International Criminal Tribunal. Many Australians have been imprisoned unlawfully by her assent to bills. Two at least were hung! I would strongly advise all public servants to read the results of the Nuremberg Trials following World War II. Many said they were only carrying out orders as they were taken to prison or the gallows! A formal request for an ICT is now being prepared. One single document would suffice to support an ICT - the current Letters Patent relating to the Governor of Victoria issued by Elizabeth II of the United Kingdom as at 3 March 1986!

If there is still any doubt left as to when and by what means the Commonwealth of Australia became a sovereign nation this is a verbatim extract from W. M. Hughes's book (The Splendid Adventure) and Hansard of the House of Representatives at page 11631 on 30 September 1921.

The speech made by the Prime Minister of the United Kingdom leaves no doubt as to the status quo of the Dominions. The speech by the Prime Minister of the Union of South Africa also leaves no doubt as to the status quo of the legislative power of the House of Commons within the Parliament of the United Kingdom.

THE SPLENDID ADVENTURE

A review of Empire relations within and without the Commonwealth of Britannic Nations by: The Right Hon. W. M. Hughes formerly Prime Minister of Australia.

London - Ernest Benn Limited 1929 printed in Great Britain - first edition Pages 234, 235 and 236 and Hansard - House of Representatives at P11631 on 30 Sep 1921.

The Report of the Inter-Empire Relations Committee covers a wide field and demands separate treatment, but I may quote here three Declarations of Rights. In his opening speech to the 1921 Conference Mr. Lloyd George (Prime Minister of the United Kingdom) said:

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

Sir Robert Borden, in his speech to the Canadian Parliament in 1919, set out the position of the Dominion representatives in the Imperial council-chamber in terms equally clear and comprehensive:

“We meet here on terms of equality under the presidency of the First Minister of the United Kingdom . . . Ministers from six nations around the council-board, all of them responsible to their respective Parliaments and to The People of the countries they represent. Each nation has its voice upon questions of common concern; each preserves unimpaired its perfect autonomy, its self-government, and the responsibility to its own electorate.”

And in 1919 General Smuts, during the debate in the South African Parliament on the ratification of the Peace Treaty, set out the new status of the Dominions in language no less clear and precise:

“The Union Parliament stands on exactly the same basis as the British House of Commons, which has no legislative power over the Union. . . . Where in the past British Ministers could have acted for the Union (in respect of foreign affairs), in future Ministers of the Union will act for the Union. The change is a far-reaching one which will alter the whole basis of the British Empire. . . . We have received a position of absolute equality and freedom not only among the other States of the Empire, but among the other nations of the world.”

That the British Government itself fully realised the significance of the change which had taken place is shown by the official statement made by Lord Milner, at that time Secretary of War.

“The Peace Treaty recently made in Paris,” said Lord Milner, “was signed on behalf of the British Empire by Ministers of the self-governing Dominions as well as by

British Ministers. They were all equally plenipotentiaries of His Majesty the King, who was the 'High Contracting Party' for the whole Empire. This procedure illustrates the new constitution of the Empire which has been gradually growing up for many years past. The United Kingdom and the Dominions are partner nations not yet indeed of equal power, but for good and all of equal status.”

Conclusion:

Each conclusion is a documented, historical and legal fact that is beyond historical or legal challenge under both domestic and international law.

(1) An Act to Constitute the Commonwealth of Australia 1900 (UK) is current domestic legislation of the Parliament of the United Kingdom.

(2) The colonial federation of the Commonwealth of Australia became the independent sovereign nation of the Commonwealth of Australia on 1st October 1919.

(3) The Crown of the United Kingdom of Great Britain and Ireland ceased to exist as a legal entity on 15th January 1922.

(4) Queen Elizabeth II of the United Kingdom reigns by the authority of the Act of Settlement 1701. She is therefore subordinate to the Parliament of the United Kingdom. The Parliament of the United Kingdom, Queen Elizabeth II or her representatives do not have the legal authority under British domestic or international law to assent to legislation within the sovereign territory of the Commonwealth of Australia.

(5) The legal authority of the United Kingdom over the former Dominion of the Commonwealth of Australia ceased as at 1st October 1919.

(6) No laws of the Parliament of the United Kingdom are valid within the sovereign territory of the Commonwealth of Australia with the exception of those designated diplomatic areas under the Charter of the United Nations - British High Commission etc.

(7) Sovereignty over the Commonwealth of Australia rests with the Australian People.

(8) The Australian Government Solicitor states “Since Australia has attained its independent status, the character of the Constitution (Clause 9 of An Act to Constitute the Commonwealth of Australia 1900 (UK) as Australia's fundamental law can be seen as resting predominantly on the Australian People's decision to approve and be bound by its terms, and not on the status of the Constitution as an Act of the British parliament.”

Answer (8a) The Australian Government Solicitor and the Australian Electoral Commission are unable to produce documentation as to when and by what means this plebiscite of the Australian People was allegedly conducted after gaining sovereignty.

Answer (8b): An Act to Constitute the Commonwealth of Australia 1900 (UK) is current domestic legislation of the Parliament of the United Kingdom and as such has no status within the sovereign territory of the Commonwealth of Australia. See (6) also.

Answer (8c): As An Act to Constitute the Commonwealth of Australia 1900 (UK) is current domestic legislation of the Parliament of the United Kingdom, the Australian People are excluded from 'adopting' this Act even if they so desired as such would be in direct violation of British domestic law, international law and the Charter of the United Nations.

Answer (9): The High Court of Australia states “The Act to Constitute the Commonwealth of Australia 1900 (UK) is not a sovereign document. Sovereignty

rests with the Australian People.” The Australian Government Solicitor states “What has been described as 'the sovereignty of the Australian People' is recognised by section 128 of the Constitution”.

Answer (9): Here we have the Australian Government Solicitor stating the sovereignty of the Australian People actually resides in Section 128 of An Act to Constitute the Commonwealth of Australia 1900 (UK) while the High Court of Australia states categorically that this Act is not a document of sovereignty! If the sovereignty of the Australian People is recognised by section 128 of the Constitution then sovereignty under the Crown could never have existed.

The inescapable historical and legal conclusion is thus clearly established by the previous pages plus the supporting historical and legal documentation held for each statement. The current political and legal system in use in Australia is limited by law to the following;

(a) The Parliament of the Commonwealth of Australia had the undoubted authority to make laws for the peace, order and good government of the colonial federation of the Commonwealth of Australia from 1st January 1901 through to the passing of a resolution by the Parliament of the United Kingdom changing the name from the Colony of the Commonwealth of Australia to the Dominion of the Commonwealth of Australia in 1911.

(b) The Parliament of the Commonwealth of Australia had the undoubted authority to make laws for the peace, order and good government of the Dominion of the Commonwealth of Australia from the time of the British resolution in 1911 changing the name from Colony to Dominion to 1st October 1919 when the Dominion of the Commonwealth of Australia became an independent sovereign nation.

© The Parliament of the Commonwealth of Australia is unable to produce any documented form of authority dating from 1st October 1919 to the current date. Certainly, an Act to Constitute the Commonwealth of Australia 1900 (UK) as current British domestic law cannot be enforced within the sovereign territory of the Commonwealth of Australia under British domestic and international law. The assertion by the Australian Government Solicitor that the Australian People have agreed to abide by the Act is political rhetoric as no documented basis in law exists (source - Australian Electoral Commission). This would contravene British domestic law, international law and the Charter of the United Nations.

William Morris Hughes as Prime Minister of the Commonwealth of Australia is recorded in 1921 as recognising the necessity for a new constitution. His colleagues recognised the fact the Australian People would never approve a new constitution based upon the old colonial model. Eighty years have passed since the Commonwealth of Australia became an independent sovereign nation under British domestic and international law.

The Australian People still do not have a document of sovereignty! Under the current 'regime', political and legal, the Commonwealth of Australia remains in a quasi-colonial limbo! The content of this document is the result of over 25 years of fully documented meticulous research. No member of the body politic, the judiciary, the legal profession, the academe, historical or legal has been able to disprove a single item. Many have tried to deny it through political rhetoric - none have disproved it by historical fact or legal argument!

I was asked by a very senior member of the legal profession to state a worst case scenario from my research. The Parliament of the United Kingdom has the undoubted authority under British domestic and international law to repeal An Act to Constitute the Commonwealth of Australia 1900 (UK) at any time from the date this Act ceased

to be valid within the previous British Colony or Dominion (1st October 1919) up to the current date. Not that they would - but they can!

Thousands of Australians now know about this document and have proven its contents for themselves. They would rather go to war again than surrender the sovereignty of this nation for which so many Australian service personnel have given their lives. I have looked upon the massed graves of some of these young men in France - we can't let them die for nothing!

This statement is attributed to the current holder of a Chair of International Law at Cambridge University who had this to say....."It never ceases to amaze me that all Chairs of Law in the Commonwealth of Australia are based upon a single piece of current British domestic law - An Act to Constitute the Commonwealth of Australia 1900 (UK). This Act is current legislation of the Parliament of the United Kingdom therefore usage of this Act in the Commonwealth of Australia has the Parliament of the United Kingdom legislating within the sovereign territory of a member nation of the British Commonwealth of Nations. This is unlawful under British domestic law and the legal structure of the British Commonwealth of Nations let alone international law and the Charter of the United Nations. The Commonwealth of Australia is not a dependency of the United Kingdom therefore the Parliament of the United Kingdom is prevented from legislating within its designated territorial limits. This old British colonial Act long ago ceased to be valid within the sovereign territory of the Commonwealth of Australia."

"When recently conversing with an Australian QC, I was astonished to hear his comment that even if the 'Australian Constitution' was no longer valid the legal basis for law would remain as common law would prevail as it does within the United Kingdom. He appeared to believe that law within the United Kingdom was based upon centuries of convention and common law. This is a fallacy! The adoption of the following major legal documents by the Parliament of the United Kingdom forms the basis of law within the United Kingdom. I told this QC that only a court within the jurisdiction of the Parliament of the United Kingdom could hear a case involving British domestic law thus excluding all Australian courts."

"The Magna Carta was confirmed by parliament in 1216/1217 by order of Henry III. The Petition of Right was confirmed by parliament in 1628 with the Bill of Rights confirmed in 1689. These documents adopted by the parliament provide documentary authority for the rule of law in England and later from 1801, the United Kingdom. The Parliament of the United Kingdom has the authority to repeal any of these documents as it deems fit. Although there are well established precedents and conventions which have developed over the past 700 years, they do not constitute written law."

"It is my opinion any international court or forum will quickly expose this feeble attempt at 'creative legislating' by the Parliament of the Commonwealth of Australia. A government might have been able to get away with such a nonsense in the earlier time periods of 1920 through to perhaps 1960. Certainly not following the Immigration & Asylum Act 1971(UK) which declares Australians to be 'aliens'. Also the enormous library of the Internet is now available to the public at large plus of course the public can for the first time publish on the Internet with the world as an audience."

A document just to hand is more than worthy of inclusion within this disclosure document. The document is headed as follows with the contents listed.....1920-1921

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
PEACE TREATIES

PAPERS RELATING TO SIGNING AND RATIFICATION OF THE PEACE TREATIES

(a) Memorandum dated 12th March, 1919 circulated by Sir Robert Borden, on behalf of the Dominion Prime Ministers. (Sir Robert Borden was Prime Minister of Canada)

(b) Rules of the Peace Conference contained in Annex II to Protocol I of the Conference, defining the position and representation of the several powers, including the Dominions (dated 18th January 1919).

(c) Correspondence between the Commonwealth Government and the Secretary of State for the Colonies concerning the signing and ratification of the Peace Treaties.

(d) Order in Council passed in Australia, moving his majesty The King to issue Letters Patent appointing plenipotentiaries in respect of the Commonwealth of Australia.

Section (b) of this document was classified Secret by His Britannic Majesty's Government and had a nominal 30 years non disclosure attachment notification.

The document clearly demonstrates the Commonwealth of Australia was in fact a sovereign nation in its own right in 1919. It was represented by its two delegates at the Peace Conference of Versailles as a belligerent nation. The document discloses the Dominions and the United Kingdom decided to join together on a common panel under the flag of the British Empire for administrative convenience only. Each Dominion was a plenipotentiary in its own right. No wonder the politicians didn't want this document to see the light of day for some 30 years. It was annotated as a secret document. It has in fact not seen light of day for some 80 years!

Paragraph 5 (b) of the Secret Memorandum.....

(b) The recital in the Preamble of the names of the Plenipotentiaries appointed by the High Contracting Parties for the purpose of concluding the treaty would include the names of the Dominion Plenipotentiaries immediately after the names of the Plenipotentiaries appointed by the United Kingdom. Under the general heading "The British Empire" the sub-headings "The United Kingdom," "The Dominion of Canada," "The Commonwealth of Australia," "The Union of South Africa," &c., would be used as headings to distinguish the various Plenipotentiaries.

The Oxford Dictionary defines plenipotentiary as.....

1. Especially of a diplomatic envoy invested with or possessing fully authority.
2. Conferring full authority.
3. Power of authority full; absolute.
4. A person vested with full authority to transact business especially a diplomat authorised to represent a country.