

Committee Secretary, and the Committee  
November 2005  
Senate Legal and Constitutional Committee  
Inquiry into Howard's proposed Anti Terrorism Laws  
Department of the Senate  
Parliament House  
Canberra ACT 2660

Dear Committee

If you had have told me four years ago that I would be penning this submission I would have laughed and informed you that while, according to the old joke, 'How do you tell when a politician is lying.... When his lips are moving', things might not be really as they seemed or as good as we were told, we were living in a democracy where free speech was a given right, human rights were sacrosanct, and that the government and the judiciary (while sometimes stretching the limits) were ruling according to law.

What I have learned in these past four years makes me sick to my stomach and I now hold grave fears for the futures of my children and grand children in this once great nation that used to be ours.

It is my intention to divide this submission into two separate arguments and it is my belief that, having studied law copiously, factually, and impartially (not believing anything that was told to me but doing my own research to prove or disprove certain claims) for these four years that I can successfully argue on either basis that John 'Bonsai' (small Bush) Howard's proposed new anti terrorism law is incapable of being legally passed in the format that has leaked out to the people he, and yourselves, are supposed to represent.

The fact in itself that we, the People, were to be kept ignorant of this Bill until it had become law is contemptible in the extreme and should in all reality demand the immediate dismissal of all involved in this treacherous secrecy, and their trial under the Commonwealth Crimes Act for attempting to pervert the course of justice. It seems that the parliament has forgotten that they are there to be servants of the people, not masters of them.

The basis of these two distinct arguments will be: -

1. That the Constitution of Australia is legally valid and that the proposed law, in its present format exceeds the authority given to parliament under that Constitution; and
2. That the Constitution of the Commonwealth of Australia is not legally valid, and even if it were, it has not been obeyed to the letter of the law and the members of that parliament have no legal right to hold their positions or enact laws.

#### Argument 1.

Nowhere in the Act to Constitute the Commonwealth of Australia (**UK**) 1900, is permission given to any parliament, State or Federal, to inter people without indictment and without trial.

S.78 states that procedures must be "within the limits of the judicial power". S79 tells us that the "federal jurisdiction of **any** (my emphasis) court may be exercised by such number of judges (**plural**) as the Parliament prescribes". S.80 states, "The trial on indictment of **any** offence against **any** law of the Commonwealth shall be by jury".

Since, '**at law, words are supposed to mean what they say**'<sup>1</sup>, this is how it must remain.

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I need not remind you that the Preamble to the Act to Constitute the Commonwealth of Australia states, "Whereas the people... have agreed to unite in one indissoluble Federal Commonwealth".

This remains so despite Mr Howard's best efforts to again mislead (read deceive) the people in his 1999 Preamble Referendum question. Apart from the many other things Mr Howard misled us over was the fact that we the people are not permitted to alter this part of the Act. We are only given permission to alter Clause 9 of the Act provided such alteration does not affect the preceding eight Clauses. Nevertheless, it was a 'good try' by Howard & Co but even if agreed to would have been legally *ultra vires* as permission to alter the Preamble is prohibited by the Act.

So, even if this Bill is not passed in the Federal arena, but instead it is passed individually in each separate State, it would be of no effect. It would remain as a law of the Commonwealth because the Act states that THE PEOPLE, not the States, agreed to unite in one **indissoluble** Federal Commonwealth, and the word 'indissoluble' speaks for itself.

Quick & Garran, recognised authorities on the Constitution, in their "*Annotated Constitution of the Commonwealth of Australia*" state, "**A law in excess of the authority conferred by the Constitution is no law; it is wholly void and inoperative; it confers no rights, it imposes no duties; it affords no protection**".

As the States are subject to the Commonwealth Constitution (S.106), and as 'the People' have united in one indissoluble Federal Commonwealth, then S.80 of the Constitution which guarantees trial by jury for **any** offence against **any** law of the Commonwealth is enforceable. Therefore the Bill in its present format, or the format that we have been *allowed* to view, cannot be passed as it allows for interment without indictment, and it allows for trial without a jury.

Under the Constitution Act the right to trial by jury wherein 'the people' decide the truth, and the judges (S.79) merely decide the punishment is, and must be, preserved as must be the right of indictment on arrest for any offence under any law of the Commonwealth.

In addition to this, the Constitution does not allow for the muzzling of free speech. Mr Howard's proposed section on Sedition does just that as, according to the letter of the proposed law, even the Opposition, or the news media would be guilty if daring to voice an opinion contrary to that of the government. Again, this would become "a law in excess of the authority conferred by the Constitution".

So should you allow this Bill to be enacted Mr Howard will see the truths emerge despite his best efforts at concealing them, as an immediate Constitutional challenge will be raised that must guarantee the right of trial by jury.

Except that, before it becomes law, you still have to find a Governor General to grant the Bill Royal Assent, who has been appointed according to the Act to Constitute the Commonwealth of Australia; that is, a Governor General who has been appointed by the Queen of the United Kingdom under her Royal Sign Manual.

This brings me to: -

### Argument 2.

The draft of the Act to Constitute the Commonwealth of Australia was voted on and accepted by the people of Australia prior to 1900. It was forwarded to the United Kingdom where the UK Parliament made over 60 alterations to it, therefore creating a completely different document than the draft that was voted on. The UK Parliament then enacted that document.

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A Constitution is a 'set of rules, agreed to by the members of a State or organisation, by which those members agree on how the State or organisation is to be run. (This, or a similar definition is contained within all dictionaries).

The draft document agreed to by 'the People' was substantially altered by the UK Parliament, thus making it a different document. That altered document was never returned to the people but was simply 'Okayed' by the parliament of the day. This does not make it a Constitution agreed to by the people and therefore it lies outside the universally accepted definition of a 'Constitution'.

This in itself means that the current parliament is governing without the consent of the people. In addition to this, Mr Howard's Preamble Referendum question included the words, "We the people... commit to this Constitution". This question was defeated soundly by 'the People' of Australia indicating strongly that they did NOT commit to this Constitution.

The current Act to Constitute the Commonwealth of Australia (UK) 1900 is, and will always remain, an Act of the United Kingdom Parliament.

It is an Act for a (self-governing) colony. It is not suitable for an independent nation.

I challenge each and every member of this Senate to stand up and publicly tell the People of Australia that this is not an independent nation.

The report, **Australia: The Concealed Colony**, was written in 1999 with the assistance of 14 of the top 20 universities of the world. It traced original historical documents and has been submitted to all member states of the United Nations. No State has refuted its findings. Several nations have commenced parallel investigations verifying all matters raised within it.

This report proves that Australia became an independent nation in 1919. It proves that this was ratified by our parliament, and recognised by the rest of the world, on 1 October 1919.

It proves that this government has no legally valid claim to governance of Australia. It proves that the Act to Constitute the Commonwealth of Australia is a UK law and after 1 October 1919 became ultra vires at law within Australia.

It proves that, even if that Act was valid within Australia, no Governor General (or State Governor for that matter) has been legally appointed under that Act, or any State Constitution, as they have not been, and can not be, appointed as required by the Queen of the United Kingdom. They therefore cannot give the 'Royal Assent' required to enact ANY law.

It proves that the Queen of the United Kingdom, under the laws of her own country, cannot assume the title 'Queen of Australia' unless Australian foreign policy is controlled by the UK Parliament. I challenge any of you to publicly stand and make the claim that it is.

By my own research I have indisputably proven that these facts are correct.

One does not have to have been trained by the 'conventional' Australian law schools to follow the trail of cases within Australia wherein these claims have been challenged. The farcical findings of the various Australian courts, including the High court have made a mockery of the Australian judicial system throughout the world.

The ad hoc decisions of the High Court defy all forms of logic, let alone law or legal precedent and can be likened to a little boy sitting on a fence, putting his bare feet down on the hot tarmac, first on one side of the fence and then on the other, but afraid to let his feet remain on either side for long lest he get burned.

These cases have progressed through the Australian legal farce to the Courts of the UK, as the Constitution is an Act of the UK Parliament. I have taken note of the following rulings firstly

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in the Chancery Division of the British High Court in London; **DAVID CLAUDE FITZGIBBON - and - HM ATTORNEY GENERAL** heard by Master Bencher Bowman, where on Friday 25th June 2004, a ruling clearly stated that:

“..Letters Patent, issued under ‘The Great Seal of Australia,’ by Her Majesty Queen Elizabeth II, Queen of the United Kingdom and Northern Ireland, appointing a Governor General in Australia, have been issued incorrectly.”

Further, under the Ruling of Sir Gavin Lightman 9th Feb 2005, David Fitzgibbon and Her Majesty’s Attorney General, also in the (UK) High Court of Justice;

“... the Commonwealth of Australian Constitution Act **is an act under the authority of UK Parliament**, and no longer applies in Australia”.

This case has now progressed to the European Human Rights Courts and has been listed for hearing, supposedly before Christmas. I wonder why Mr Howard urgently needs his proposed legislation enacted before Christmas.

You might say that results in that Court have no bearing within Australia. That would be incorrect. Firstly, legal decisions from around the globe are used in Australian courts on a daily basis. Secondly, since becoming a member of the European Union, the UK has taken EU and International Law into its own legislation. It has also surrendered UK legislation into the EU.

Because of this, *we* might ignore a ruling in these courts, **BUT THE QUEEN CAN NOT**. She is bound by them, and if the correct legal findings are made, she can be bought before the courts as a private citizen with no royal immunities. She will be forced into the situation where, under any title, she will have to announce to the world that she can have nothing to do with Australia and that the current governments, and the judiciary, are ruling without legal authority. This can no longer be denied.

Our ANZAC Diggers earned for us the right of Independence. So, as the momentum of the awareness of these matters by the Australian People, and countless international States and bodies, continues to increase on a daily basis, you are faced with a monumental dilemma.

Do you behave like ostriches, hiding your heads in the sand, and pass John Winston Howard’s Bill, or, before the manure hits the air conditioner, do you stand up like loyal and true Australian Citizens and publicly denounce the fraud and propose a solution that will guarantee the Australian People that which is currently being demanded for the people of Iraq.... **OUR OWN CONSTITUTION**.

One thing is for certain; history will condemn you for one decision, and applaud you for another. The reputations of your heirs and successors depend upon your actions. The ball is in your court.

Yours patriotically

P A Gillies

1 Geoffrey Robertson, ‘*The Justice Game*’.

N.B I would have no problems in appearing, if called, before the Senate Committee. I have previously offered Mr Howard my assistance in solving the most serious of legal problems, but so great has his arrogance become that he does not even bother to answer my letters.