



Office of
Attorney-General

- 6 JUL 1999

191513

Mr R G McCulloch
C/- M & A Camilleri
M/S 895 Sugar Shed Road
MACKAY Qld 470

Dear Mr McCulloch

I refer to your letter dated 19 May 1999 to the Attorney-General, the Hon. Daryl Williams AM QC MP, enclosing a document with the heading 'Question to the Federal Parliament', regarding the validity of Australian law. The Attorney-General has asked me to reply to you on his behalf.

The paper enclosed with your letter asserts that Australia became an independent nation when it became a member of the League of Nations and that this invalidated legislation in force in Australia, including the Commonwealth Constitution. On the assumption this assertion is correct, you then ask what documents form the basis of law in Australia after that event.

The view outlined in the document is misconceived. The Constitution remains the fundamental law of Australia, and laws made in accordance with it are valid. The constitution is contained in section 9 of the Commonwealth of Australia Constitution Act, which was enacted by the United Kingdom Parliament.

The *Australia Act 1986* of the Commonwealth, and the *Australia Act 1986* of the United Kingdom, brought the constitutional arrangements governing the Commonwealth and the States into conformity with the status of Australia as a sovereign, independent and federal nation. The United Kingdom Parliament enacted its *Australia Act* at the request, and with the consent, of the Commonwealth Parliament and the concurrence of all State Parliaments. Section 1 of both Acts acknowledge the complete legislative independence of the Commonwealth and the States and terminate the power of the United Kingdom Parliament to legislate for any part of Australia.

Australia's development into an independent nation did not terminate existing laws in force in Australia, nor did it render subsequent laws invalid. This is demonstrated by the High Court's recent decision in *Joosse v Australia Securities and Investments Commission* [1998] HCA 77. In this case, the High Court considered, and rejected, arguments to the effect that some kind of break in Australia's sovereignty occurred over the course of this century, with the results that the Constitution ceased to be fundamental law and that legislation passed by Australian legislatures was invalid. This case is reported in volume 159 of the *Australian Law Reports*, p.260 ff. More recently still, in *Sue v Hill* [1999] HCA 30 a decision given by the High Court on 23 June 1999, the High Court described the development of Australia as an independent and sovereign nation under the Constitution and the Crown.

An assent copy of the Commonwealth of Australia Constitution Act (a copy signed by Queen Victoria) is kept in Parliament House, Canberra, and is generally on public

display there.. Copies of the Constitution are available at many public libraries and book stores.

I hope this information is of assistance to you.

Yours sincerely

J. Power
Janet Power
Adviser

Attention and Wayne Levick
and Sam Lawrence.

Good Morning gentlemen.

I am forwarding this letter to you as I think you will find it interesting. I am considering sending a copy back for the Hon Daryl Williams to sign personally.

I would like to hear your opinions.

All the best.
A. G. M. Pullen.
Ph. 0418776927