

# AUSTRALIA: THE CONCEALED COLONY!

A report to the  
United Nations on  
the continuance of  
the application of  
British law within  
the territory of the  
independent  
sovereign nation  
Australia



**Reply:** “The Queen’s role as Queen of Australia is, in legal terms, distinct from her role as Queen of the United Kingdom (as it is distinct from her role as Queen of Canada or of New Zealand).”

**Question:** “Under the laws of the United Kingdom is it permissible for the sovereign to issue letters patent to non British subjects?”

**Reply:** “I am afraid I cannot say whether the Queen, when acting in her capacity as Queen of the United Kingdom, can issue Letters Patent to non-British subjects.”

**Question:** “I have been advised that the Letters Patent of 1984 were issued by the Queen of Australia under the Great Seal of Australia and that the Keeper of the Royal Seals, Lord Huntington, has advised that only the Queen of the United Kingdom can issue Letters Patent covering the Constitution of the Commonwealth of Australia.”

**Reply:** “The Queen of Australia, when acting in relation to Australia, acts on the advice of the Australian Government. I have not seen and therefore cannot comment on any advice from the ‘Keeper of the Royal Seals’ to the effect that the Queen of Australia cannot issue Letters Patent in relation to the office of the Governor-General on the Advice of the Australian Government.”

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## THE ENACTMENT OF VALID LAWS UNDER THE CURRENT SYSTEM OF GOVERNMENT IN AUSTRALIA IS NOT POSSIBLE

As unsatisfactory as these replies are they do confirm that the Queen of Australia is considered to be a legal entity separate from the Queen of the United Kingdom. It is pertinent to mention that there exists a strong argument that the ‘Queen of Australia’ possesses no legal authority whatsoever. However, let it be assumed that that office does possess power. Then serious questions present themselves when it is pointed out that the Queen of Australia has been created to be the Executive Head of the Government of the Commonwealth of Australia while at the same time the Queen of the United Kingdom remains the Executive Head of the separate States which constitute the Federal Commonwealth of Australia.

The Queen of Australia has been created and installed as the Executive Head of the Commonwealth of which the fundamental law, the Constitution, remains part of a current Act of the Parliament of the United Kingdom which, it has been confirmed, is the only authority which can repeal the Act. This is compounded by the fact that the only Monarchy that the Act, and thus the Constitution, recognises is the Monarchy in the sovereignty of the United Kingdom. The result of this is that the Governor-General, who is appointed by a Queen of Australia, cannot give assent to any law created under the Constitution.

## AUSTRALIAN ATTORNEY-GENERAL’S OFFICE IGNORES IMPLICATIONS OF INTERNATIONAL LAW

When questions pertaining to the validity of the continuing application of the Australian Constitution are asked of the Commonwealth Attorney-General the standard reply is:

“You will be aware that the Commonwealth Constitution was passed as part of a British Act of Parliament in 1900. A British Act was necessary because before 1900 Australia was merely a collection of self-governing British colonies and ultimate power over those colonies rested with the British Parliament.

“However, during the course of this century Australia has become an independent nation and the character of the Constitution as the fundamental law is now seen as deriving not from its status as an Act of British Parliament, which no longer has any power over Australia, but from its acceptance by the people.

“Nevertheless, the Constitution remains part of an Act of the British Parliament. That Act has not been repealed.”

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When this approach is aligned with the fact that conditional clause 8 of the Act states, in part, that the Commonwealth shall be taken to be a self-governing colony for the purposes of the Act. And clause 2 defines the Act as functioning in the Monarchy of the United Kingdom it will be recognised that Australia’s chief law officer is either inept or is attempting to be deceptive.

However, when the realities of the consequences deriving from the fact that Australia has, through its ‘Treaty of Peace Act 1919’ and its ‘Charter of the United Nations Act 1945’, effectively written International law into Australian domestic law, the reasoning contained in such responses borders on the bizarre.

When the Attorney-General’s continual avoidance of the implications and responsibilities under international law is summarised, as it is in his July 27, 1999 response to the notification of the intent to file this submission requesting an ICT, a policy of sheer contempt is displayed.

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# ANNEXURE 3

## LETTER FROM AUSTRALIAN PARLIAMENTARY HOUSE CONFIRMING OBLIGATORY NATURE OF THE OATH AND AFFIRMATION TO BE SWORN AND SIGNED BY ALL PARLIAMENTARY MEMBERS





PARLIAMENT OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

PARLIAMENT HOUSE  
CANBERRA ACT 2600  
TEL: (02) 6277 7111

10 JUN 1999

Mr Peter Batten  
PO Box 23A  
SOMERS  
Vic 3927

Dear Mr Batten

Your letter dated 31 May 1999 to the Australian Electoral Commission on the subject of Members' oaths or affirmations of allegiance was referred to the Department of the House of Representatives for answer in respect of Members of the House.

An oath or affirmation of allegiance by Members and Senators is a requirement of the Australian Constitution. No provisions of the *Commonwealth Electoral Act 1918* are involved. Section 42 of the Constitution states:

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

The wording of the oath or affirmation is set out in the schedule to the Constitution, as follows:

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.)

There is no provision for any deviation from this constitutional requirement. No Member may take part in proceedings of the House until sworn in.

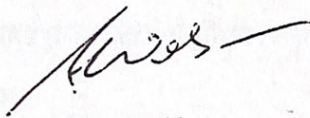
The standing orders of the House state in relation to a new Parliament that Members shall 'be sworn, or make affirmation, as prescribed by the Constitution'. Although no more detailed procedures are specified, either in the standing orders or elsewhere, the traditional practice is as follows.



The oath or affirmation of allegiance taken by newly elected Members at the beginning of a Parliament is administered by a person authorised to do so by the Governor-General. This is traditionally a Justice of the High Court. The judge is escorted into the Chamber and to the Speaker's Chair by the Serjeant-at-Arms. The Clerk reads to the House the commission from the Governor-General authorising the judge to administer the oath or affirmation and then tables the returns to the writs for the general election, showing the Member elected for each electoral Division. Members are called by the Clerk in turn and approach the Table in groups of approximately ten to twelve, make their oath or affirmation, sign (subscribe) the oath or affirmation form and then return to their seats. The Ministry is usually sworn in first, followed by the opposition executive and then other Members.

Members not sworn in initially may be sworn in later in the day's proceedings or on a subsequent sitting day by the Speaker. The Speaker receives, after his or her appointment, a commission from the Governor-General to administer the oath or affirmation. Those Members elected at by-elections during the course of a Parliament are also sworn in by the Speaker.

Yours sincerely



Robyn Webber  
Director  
Chamber Research Office