

AC PAPER NO. 20

Change to an Australian Republic not possible?

‘As the law stands the Government and Federal Parliament have no legal or constitutional power to convert Australia to a republic, since that involves setting aside the 1900 Act and destroying the sovereignty of the Crown – impossible under the “rule of law.” (p. 376 of Kevin Perkins’ book *Dare to Dream* . Sydney: Golden Wattle, 2001. ISBN 0 646 39467 0.)

He wrote also: “Yet based on some of our best legal authorities (quoted below) the 1999 republican legislation was unlawful and unconstitutional because, the constitutional authorities say, the Crown cannot be removed from the 1900 Act under existing Australian law.” (see p. 371.)

When the above was referred to the Rt Hon. Sir Harry Gibbs GCMG, AC, KBE, widely respected and former Chief Justice of the High Court and constitutional expert, he wrote (letter dated 19 March, 2004):

“We could argue with some confidence that Australia cannot become a republic as long as the Constitutional Act 1900 remains in force and that a referendum by itself could not repeal or amend the Constitutional Act.

In reply our opponents may argue that a referendum could give the Parliament power to repeal the Constitution Act, at least if s. 8 of the Statute of Westminster were repealed in one of the ways provided in s. 15 of the Australia Act.

What the High Court would ultimately decide on this question cannot be predicted.”

AC is not able to comment on the above. It is for others (possibly the High Court*) to rule on. However, words as above from a person such as the late Sir Harry Gibbs do cause many to be concerned.

Quote from leading republican, Professor Greg Craven

“No State should be compelled to move to a republican form of government simply because of a corresponding change in the Commonwealth sphere.” (letter 16 July, 2009.)

* AC has both asked “should this occur?” and “who would fund a High Court decision?”

DARE TO DREAM

Kevin Perkins has proved himself one of Australia’s best journalists, writers and biographers.

Regarded by his colleagues as the reporters’ reporter, he “covered the waterfront” as an investigative journalist and hard hitting columnist on various Sydney metropolitan newspapers for almost 40 years – and as a news executive for 20 of those years.

Noted for his meticulous research and flair with stories of human interest, Perkins is the author of several best selling books, including biographies of famous English bodyline bowler Harold Larwood, Prime Minister Sir Robert Menzies, gambler Big Bill Waterhouse, legendary trainer Tommy Smith and woman in a man’s world, Gai Waterhouse.

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