

# AC PAPER NO. 6

# AUSTRALIA IS INDEPENDENT

*- confirmed by the High Court, Dr Ann Twomey and republican leaders*

**Early 2012**

Australia is independent. The Queen's **ONLY** Constitutional duty relates to the appointment and dismissal of the Governor-General, which by convention is normally done on the recommendation of the elected Australian Prime Minister of the day. The Royal appointment maintains the office of the Governor-General and State Governors as **being above politics** (prime ministerial appointment or appointment by State Premiers would politicise it). The Governor-General is the ultimate Constitutional umpire. "He exercises the reserve powers of the Crown completely free of any interference from anyone. His powers flow from the Constitution - not from the Queen. Although he is the Queen's representative, he does not take his instructions from her." (Prime Minister John Howard's statement circulated at the 1999 Constitutional Referendum). **No one** can instruct the Governor-General in his/her functions. He/she is totally **independent**.

**Australia's independence** is confirmed by Australia's leading republicans:-

Former Governor-General of Australia and republican Rt Hon Sir Zelman Cowen PC AK GCMG GCVO KStJ Kt "Australia is an **independent** country" *Sydney Morning Herald* 8.9.2000 quoting from documentary "A mirror to the people" screened on ABC 7.9.2000

The Hon. Sir Gerard Brennan AC KBE, republican and former Chief Justice of the High Court of Australia:- "Australia is now an **independent** nation and Australians live in freedom under the law in a stable democracy." (p.2 of his Fourth Geoffrey Sawer Lecture 18.7.2001) and p.15 "Under the Constitution, Australia has grown into a free and **independent** nation...."

Professor Cheryl Saunders - Centre for Constitutional Law, University of Melbourne, a republican:- "Australia achieved full **independence** from Britain after the Constitution came into effect in 1901." (p.204 *Constitutional Politics*. University of Queensland Press, 2002.)

Former republican leader Malcolm Turnbull:- "We are an **independent** nation" (p.3 of his book *The Reluctant Republic*) and p.4 "history has seen Australia become **its own nation**" and p.56 "by mid-1950s, Australia was certainly an **independent** nation."

**AUSTRALIA ACT 1986** - An Act to bring constitutional arrangements affecting the Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a sovereign, **independent** and federal nation.

"BE IT THEREFORE ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia as follows:

**Termination of power of Parliament of United Kingdom to legislate for Australia.**

No Act of the Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to the Commonwealth, to a State or to a Territory as part of the law of the Commonwealth, of the State or of the Territory".

The High Court of Australia:- In the case of Sue v Hill (23 June 1999) the High Court decided that Mrs Hill could not take her place as a Senator because, in breach of the Constitution, she owed allegiance to Britain (she was a dual citizen holding 2 passports: Australian and U.K.) The High Court affirmed that Australia was **independent** and that the Australian Crown is by law and convention a **separate** institution from the

British Crown. The Australia Act of 1986, passed by the Parliament of the Commonwealth of Australia at the request of all the States, says in its preamble that its purpose is "to bring constitutional arrangements affecting the Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a sovereign, **independent** and federal nation."

Moreover, the *Overview* to the Australian Government Solicitor's 1995 (the earliest held) and subsequent editions of *Australia's Constitution* (including in its latest Oct. 2010 edition) states "During the course of this century..." [1995 ed..] or "Since that time (1901)..." [Oct. 2010 ed.], "... Australia has become an **independent** nation." Some random other

quotes from a selection of Australia's leading Republicans made in "*The Case for YES*" (Federation Press 1999) include:-

- P.33 Republican Hon. Kim Beazley referred to "**our sense of self reliance**"
- P.100 Republican Dorothy McRae-McMahon "**We are really on our own**" and p.106 "**we are ourselves**, with our own unique aspirations."
- P.116 Republican Frank Brennan "We agree that the Commonwealth of Australia which is an **independent**, democratic and sovereign nation ..."
- P.137 Republican Mark McKenna "And whereas the Federal Commonwealth, the Commonwealth of Australia, evolved into an **independent** nation under the Crown of Australia"

Also, independent constitutional expert Dr Ann Twomey of Sydney University said in *The Australian* on 3 March 2011 "Yes. Australia as a nation became independent at some unknown date after 1931."

Also, the 1988 Report of the Hawke Government's Constitutional Commission, of which Gough Whitlam was a member, found that "'Australia had achieved full independence as a sovereign state of the world' sometime between 1926 and the end of World War II and was so recognised by the world community."

A senior and respected republican who initially believed that we were 'becoming' independent, when given this paper wrote in December 2011 "I take your point about Australia 'becoming' an independent country, and I (now) accept that it is one".

### Summary

If the Australia Act 1986 and 4 of Australia's leading and well informed Constitutional experts (all republicans) say we are **independent** and the High Court of Australia as well as the Federal Government say we are **independent** and four other senior republicans confirm we are **independent** - who is to say we are not?

### Comment

We are therefore an **INDEPENDENT** nation. As Prime Minister Julia Gillard said "We live in a lively and resilient democracy, and it works" (*The Australian* 8 September 2010). And since, in the words of former republican leader Malcolm Turnbull: "*We already have a perfectly good functioning democracy ... it's a uniquely Australian system that works well*" (*The Australian* 16 July 2001), and since republican professor Greg Craven says of our Constitution "*It is the greatest asset we have*" - *Cefa News*, vol. 1, 2004, wouldn't it be better, rather than waste two to three billion dollars overturning our present system, proven to have worked faultlessly for over 100 years, to invest that money in matters of **real** community need, such as more hospital beds, fighting drugs and related crime, unemployment, civics education etc etc.

NB Some republicans assert Australia is not independent saying that we send money to the Queen / United Kingdom! This totally untrue statement is confirmed as false in letters various from the Governor-General's Official Secretary (the most recent one of 3 May 2010) which said "I reiterate previous advice from this office that no monies are paid by the Commonwealth of Australia to Her Majesty or to the United Kingdom in respect of Her Majesty's role as The Queen of Australia."

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When R. H. Allert AO on 6 November 2011 wrote "I am actually a member of the ARM because I do want to see Australia become an independent nation..." P. Gibson then sent him this paper - to which Mr Allert replied on 13 December 2011 "I take your point about Australia becoming an independent nation, and I accept that it is one."