Research Director,
LCAR Committee,
Parliament House,
George Street,
Brisbane, Q'ld. 4000

08.11.1997

Dear Sir/Madam,

I write in response to your Courier Mail advertisement, "Should Queensland adopt a Bill of Rights", 17.09.97.

As Sir Humphrey would say, "What a courageous idea, Prime Minister"!

Before proceeding, let me draw your attention to the Royal Assent given on 25.09.1991, by the then Governor General Mr. Bill Hayden, to the International Covenant of Civil and Political Rights, (ICCPR) and which subsequently became operative on 25.12.1991.

At the time, Federal politians were trumpeting that the Australian Constitution didn't have a Bill of Rights and that something should be done about it!

Years later, in reading about our Commonwealth Constitution, I was astonished to learn, that at the time of Federation, many of the Statutes of Westminster, were transferred and codified into State Law. This was done by States passing Legislation which became known as the Imperial Act Applications Act.

In Queensland, The Imperial Acts Application Act, No. 70 of 1984 provides "that certain Imperial enactments in force in England, at the time of the passing of the Imperial Act 9 George IV Chapter 83 shall continue in force".

The First Schedule, of the Imperial Enactments continued in force (s.5) cites the following:

(1297)	25 Edward I c.29	Magna Carta
(1351)	25 Edward III c.4	Criminal & Civil Justice
(1354)	28 Edward III c.3	Liberty of Subject
(1368)	42 Edward III c.3	Due Process of Law
(1623)	21 James I c.3	The Statute of Monopolies ss. 1 and 6
(1628)	3 Charles I c.1	The Petition of Right
(1679)	31 Charles II c.2	The Habeas Corpus Act, 1679,ss. 1-8, 11, 15-19
(1688)	1 William & Mary Sess.2 c.2	The Bill of Rights

So.....as you can see, Queenslanders did have a Bill of Rights...and as far as I know, so did the other States!

You'd have a hard job convincing me now, that EARC, or the Federal Government of the day, was unaware of this most important States' Legislation.

It is the 1688 Bill of Rights, which is worded in such a way that, only "We the People" can ever change, alter or amend it, and then only by popular vote.

As if to justify their actions at the time, Federal Politians frequently told us that we didn't have a Bill of Rights in the Australian Constitution and that this new Covenant (ICCPR) would rectify the situation.

In a Democracy, that which affects All, should be considered by All! If the Rights of Australians have been altered without reference to, or by consent of the People, new and serious problems arise.

Piers Ackerman, writing in the Sunday Telegraph on the 25.06.95, wrote,

"Politians who, knowing the Australian electorate would not approve of the laws they seek to impose upon it, sign international treaties without any discussion with the voters and manipulate the international treaties and protocols to usher in laws which run counter to the Australian Constitution and erode the sovereignty of our Parliaments".

Before closing, let me make a few observations concerning the International Covenant on Civil and Political Rights (ICCPR). Some of our pre-existing Rights are not re-stated as Rights in the ICCPR. While some amendments are laudable and well-meaning, other pre-existing Rights are now weaker. Let me give a few examples:

(1) the Right to own Property is no longer stated

(2) the Right to Freedom of Assembly is now restricted

"...in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others".

(3) the Right to Freedom of Speech has been restricted by amending it

"for respect of the rights or reputations of others, and for the protection of national security or of public order or of public health, etc".

(4) the Right to Trial by Jury has been amended, to allow a Trial by

"competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State..."

(5) other instances involve, the Right from Unjust Imprisonment, the Right to Freedom from Unjust Taxes, the Right to Petition Parliament etc.

These, and other amendments should have been put to the People of Australia, for their consideration and consent.

In Law, State Law is subservient to Federal Law: Federal Law is subservient to Constitutional Law and Constitutional Law is subservient to Referendum of the People. In turn, the Monarch is bound by the Coronation Oath to uphold and defend those Inherited Laws which protect the Rights and Freedoms of the People.

Because of the Coronation Oath, the English Monarch cannot lawfully give Royal Assent to any Law, if it conflicts with Laws such as The Magna Carta of 1297 or The Bill of Rights of 1688.

As no Servant appointed by the Queen, can assume Powers which the Queen herself does not hold, it likewise follows that the Governor-General and our State Governors, cannot give Assent to Laws which are in conflict with Laws such as The Magna Carta or The Bill of Rights.

Therefore, any changes to the Rights and Freedoms of Australian Citizens, which have not been constitutionally referred to the Australian People, are invalid.

It would seem that there must be a conflict between the interpretation of the extent of the External Affairs Powers and those Rights which were very deliberately placed in the hands of the People.

Those English Laws, incorporated in Queensland Legislation as the Imperial Act Applications Act, have protected the Rights and Freedoms of Citizens for over 300 hundred years. They work best when actively and honestly administered and can only be altered according to Constitutional process.

Yours sincerely,

Alan Simpson.

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