

*Submission No 9*

14.12.99

The Research Director,  
Legal, Constitutional and Administrative Review Committee,  
Parliament House, George Street,  
BRISBANE. 4000

Dear Kerry,

Re: The Role of the Q'ld Parliament in Treaty Making

Although I've been actively interested in political affairs for a very long time, I was unaware, until 1997, of the huge number of Treaties which have been signed by Australian Governments in the previous twenty years or so...

Thinking back, I mainly remember hearing about them after they'd been signed, so I can only assume that many were concluded behind closed doors or at best... out of the media spotlight.

Looking at recent examples, the Non-aggression Treaty with Indonesia was done in secret and while it made a great newspaper headline, it really wasn't worth the paper it was written on... the Multilateral Agreement on Investment was kept under wraps until someone spilled the beans on the Internet. This proposed treaty was nothing more than a powerful Corporate Bill of Rights designed to create investment opportunities, by weakening the Democratic Power of Governments... or more recently, the proposed Deregulation of Services at the WTO Round in Seattle was the same agenda... but coming from a different direction. The riotous uproar at that Conference contained the clear message, that People didn't trust their Representatives to represent them... and they could see that their Democratic Freedom was at risk. The more sombre message was, that many of History's Revolutions began... for similar reasons!

Australians have powerful Rights which are protected by State Legislation, but unfortunately these Rights are not well known by Australians and worse, they are frequently ignored by politicians... and certainly not respected by the Big End of Town.

You may recall Kerry, that I wrote to you on a previous occasion, about "Should Q'ld., adopt a Bill of Rights" and at the time, I drew attention to the Imperial Acts Application Act No.70 of 1984 which contained,

1297 Magna Carta  
1351 Criminal & Civil Justice  
1354 Liberty of Subject  
1368 Due Process of Law  
1623 The Statutes of Monopolies  
1628 The Petition of Right  
1688 The Bill of Rights

Because these long-standing Laws were inherited from British Law at the time of Federation and enacted into State Legislation, State and Federal Politicians have an unavoidable Duty to protect and uphold the Rights and Interests of Australian Citizens at all times.

However, Federal Governments have creatively used the External Powers Provisions to get around Constitutional constraints and it seems to me that they've signed many treaties, as though the Imperial Acts Application Act in our State Constitution, never existed. In the absence of an Imperial Acts Application Act in Federal Law, surely S.109 requires State Law to be upheld and for this law to be vigorously protected.

This also raises the question...is the Governor-General, or any of the State Governors, aware of the Australian Citizen's "Bill of Rights" in the Imperial Acts Application Act and do they seek advice about it when legislation comes before them for Assent? Under Para. 61 Chapter II of the Australian Constitution, the Governor-General's Duty, as the Queen's Representative, extends to upholding the Constitution **and** the Laws of the Commonwealth of Australia.

The 1688 Bill of Rights, very deliberately places Power in the hands of the People, so that the Rights of the People cannot be altered in any way, without reference to and by consent of the People.

Considering the enormous importance of this ancient Legislation, did the High Court, when it handed down it's External Affairs Powers judgment, giving wide legislative powers to the Federal Government, express any concerns about the effects these new powers might have on the Imperial Acts Application Act and thus... on the Rights of Australian Citizens? Further, did the High Court considered what effects the External Powers determination would have on the Sovereignty of the States?

Perhaps Q'ld hasn't done much to help it's own cause either! Has the Q'ld Government ever tested the Imperial Acts Application Act with the Federal Government or ever promoted the Act so that politicians would be more cautious about signing any Treaty which involved the Rights of our Citizens or the Sovereignty of our State?

A few years ago, when federal politicians were loudly proclaiming that the Australian Constitution didn't have a Bill of Rights, I really didn't know that this particular State Legislation existed despite a long interest in politics and I'm sure... that 99.999% of other Voters didn't know either!

Globalisation has proved to be wonderfully good for profit... but very bad for people...

I believe that the Imperial Acts Application Act, with it's 1688 Bill of Rights, still has the force of Law, and could be used as a powerful instrument to prevent Parliaments from signing Treaties which might be good for business... but very bad for people. In other words, it would restrict Treaties which use Economic Solutions for Social Problems and strike a balance with Treaties which favour Political Solutions for Social Problems.

At the moment, solutions are based on the Profit Motive and the need of Transnational Corporations to maximise returns to Shareholders without the need to exercise Social or Environmental Responsibility. Consequently, if we are to avoid the mistakes of the past, we desperately need a Policy which balances Profit with Social Health and Environmental responsibility.

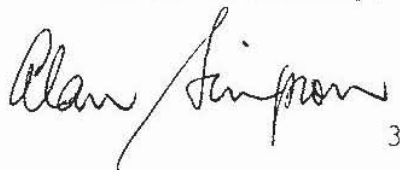
Through the use of Tax Havens and the brutal use of Corporate Power, Multinationals are checkmating Nation States and manipulating politicians towards deregulation and the privatisation of Publically owned Utilities. The Fairmont Millionaires' Club, in San Francisco, currently predicts that, in the coming years, only 22% of the World's Workforce will be needed to keep the World's Economies ticking over! ... and that's a very dangerous scenario.

An intimate knowledge of both the Q'ld and Australian Constitutions has always been paramount to our Federal/State relationship and apart from recommending the full and constant exchange of information, I would leave the administrative details to others.

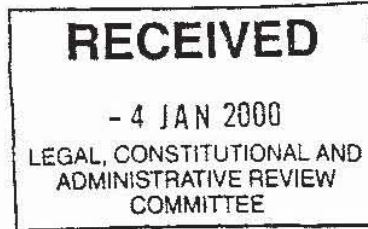
I would most strongly recommend however, that you use the Imperial Acts Applications Act where ever possible, because we desperately need a National Policy which balances Profit with Social Health and Environmental Responsibility. We certainly don't have it at present... despite what the Spin Doctors say!.

Thank you,  
Yours sincerely,

Alan Simpson.



Alan Simpson



Addendum to Submission 9.

28.12.99

The Research Director,  
Legal, Constitutional and Administrative Review Committee,  
Parliament House, George Street,  
BRISBANE. 4000

Dear Kerry,

Re: The Role of the Q'ld Parliament in Treaty Making

Thank you for your kind attention to my letter of the 12th December, and for your reply of the 20th. I had received a copy of the "Position Paper No. 1", but at the time of writing, I was considerably disheartened by the lack of knowledge of two Federal Public Servants, concerning Queensland State Law.

On the 22nd September, I attended a Public Hearing on the Dept. of Foreign Affairs and Trade (DEFAT) WTO negotiations in the Auditorium of State Development, George Street, Brisbane.

Many concerned citizens present, myself included, formed the opinion that the Federal Government was just going through the motions of seeking public discussion but with no real intention of changing an already established agenda.

Some time later, on the 4th November at a meeting in the School of Arts Hall, in Ann Street, I had the opportunity of publically asking two different Trade representatives (Messrs Hussen and Ahtago) if they "were aware that the Imperial Acts Application Act No 70, in Q'ld State Legislation, contained the Statutes of Westminster and did they take this Bill of Rights for Australian Citizens into consideration when signing International Treaties on behalf of all Australians?"

I almost smote myself in despair when I saw the blank look on their faces and heard their faintly audible, "no"!

So, I ask the question... can the Queensland Government trust the Federal Government to make International Treaties when Federal Trade Bureaucrats have little or no knowledge of the Imperial Acts Application Act in State Law? I also have to ask... what other aspects of States Rights could be hidden under some obscure legislative title and perhaps also regularly overlooked by both State and Federal Bureaucrats?

Further, what effect has "staff restructuring" of State and Federal Departments had on the ability of Public Servants to become fully conversant with all aspects of State and Federal Laws?

State Governments are Sworn to uphold our Laws and prevent any trespass on those Laws. However, when International Treaties are being considered, important issues such as Citizens' Rights, State Rights and the Sovereignty of the State, are often ignored and not given the respect their importance deserves.

On 25.09.1991, the Q'ld Government did nothing to prevent the Federal Government from signing the inferior International Covenant on Civil and Political Rights (ICCPR) despite the existence of the Imperial Act Applications Act in State Law. The Q'ld Government should be able to rapidly and legally defend our State Laws against encroachment when required.

All Q'ld Voters, through their State politicians, have a Constitutional Right to be apprised of any proposed Treaties the Federal Government is considering before it passes into Law. The Democratic Process demands Public Discussion and Informed Debate... it results in our political servants being better equipped to make important decisions on our behalf.

Past and present State Governments have been prepared to fight to the Death over Federal finances, but they've done little to promote it's Citizen's Rights. Had they vigorously done so, Federal politicians and bureaucrats would have been more cautious in using the External Powers particularly where the Rights of our Citizens or the Sovereignty of our State was involved.

Come to think of it Kerry... under the Australian Constitution, wasn't the Sovereignty of the States supposed to be sacrosanct...? On balance, Committee Proposals 1, 2 and 3, represents a practical solution... but the Imperial Acts Application Act **must** be pro-actively promoted everywhere.

Thank you,  
Yours sincerely,



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