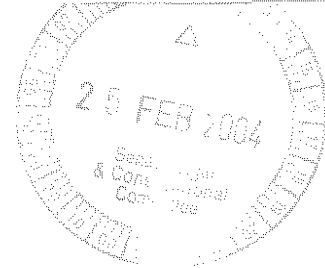


Philip L. Gibson

24<sup>th</sup> February, 2004.

The Secretary,  
Senate Legal and Constitutional Committee  
(The Bolkus Committee Inquiry)  
Room S1 61 Parliament House  
CANBERRA ACT. 2600.



Dear Sir, *Madam*,

My submission a) supports the recommendation of respected Republican Constitutional expert Prof. Cheryl Saunders and b) puts the question:- Was the referendum legislation unlawful and unconstitutional?

a) Those who seek to change our present 102 year old successful system of Government to an albeit undefined Republican one should adopt the recommendations of one of Australia's leading and respected Republican Constitutional experts, Prof. Cheryl Saunders who said:-

"It follows that, if there is to be further consideration of a republic, there should be at least three elements of the information campaign.

The first should explain the current arrangements and the implications of the move to a republic.

The second should explain the proposed alternative.

The third should be designed to deal with queries that arise during the campaign, before the vote takes place."

Book: "Constitutional Politics" University of Queensland Press 2002 - page 206

According to the Hon. Paul Keating's 1995 Civics Expert Group survey, 82% of Australians have little or no idea of how and why our system of Government works or what is in our Constitution.

Therefore, if we don't understand our PRESENT system, how can we ever know whether a system - or ANY alternative system - would be better or worse? The referendum model in the opinion of Australia's leading Republican Constitutional experts - complemented by Sir Harry Gibbs, former Chief Justice of the High Court was a worse one. (Enclosed are attachments 1a and 1b with thanks to AIDC who supplied them)

Learning about our present system therefore becomes the essential first priority if change is to be considered, and BEFORE change is considered. Such learning is fortuitously and happily

NON-partisan AND SUPPORTED BY both SIDES OF THE Republican discussion:-

Current Australian Republican Movement brochure: "Encouraging greater understanding Australia's Constitution and the system of Government".

\*No one has a contribution to the working and preservation of our democracy which is more important than that of our teachers in primary, secondary and tertiary education". The late Richard McGarvie p.80 "Constitutional Politics"(Warhurst & McKerras University of Queensland Press 2002).

"I believe that any money spent informing Australian about their Constitution and their system of government is money well spent:. Page Vlll of Malcolm Turnbull's book "Fighting for the Republic" (Hardie Grant Books 1999).

"The fault lies with governments that over many years have failed to educate Australians from an early age about how our system of government works". Former ARM Chair, Greg Barns, The Australian 10 July 2000.

ACM is also a very strong supporter of Civics Education.

I therefore submit that, instead of spending unknown and possibly unlimited Senate (taxpayers) funds sending unknown numbers of Senators and Senate public servants all over Australia taking submissions on how to promote "a republic" not knowing ANYTHING about the SORT of republic, is very much secondary to investing money on non-partisan Civics Education about our present system.

The often not understood words ":Civics Education" mean simply teaching Australians about how and why our system of Government and Constitution works.

The non-partisan and non-political Commonwealth Education Fund-Australia is being introduced during 2004 with the Governor General as its Patron in Chief and tax deductibility for donations to it. It will offer cash prizes to students for competitions relating to an understanding of our system of government. I understand that its web site [www.cefa.org.au](http://www.cefa.org.au). is not yet started - but it should not be too long.

As Pierre Trudeau once said, let us have:-

"Reason before passion".

Prof.Saunders reasoning is to be praised and shows responsible leadership about such an important matter - our Constitutional future.

I record my appreciation to the group Australians for an Informed discussion on our Constitution who has given me a copy of its submission and other papers.

b) Was the referendum legislation unlawful and unconstitutional?  
 Respected author Kevin Perkins in his book "Dare to Dream"  
 (Golden Wattle Publishers 2001 - distributed by Gary Allen Pty.  
 Ltd. 9725 2933 - The life and times of a proud Australian ,Tom  
 Hayson) said:-

"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..

"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".

I request that pp. 367 - 385 form part of this submission, as  
 attachments.

These assertions are supported by Kevin Perkins' references to  
 some of the best legal authorities, full details of which are set  
 out on pp.367 - 382 and its "End Notes to Epilogue" - attached.  
 My question to the committee is:-

Does it accept these statements to be accurate or not, and if  
 not, could it please supply a reasoned argument as to why not?

This is a matter of the utmost importance - to be rebutted (with  
 Constitutional reasons) or agreed to.

Could the Committee please respond?

Yours sincerely,



Philip L.Gibson