LETTERS BY ARTHUR CHRESBY TO GOVERNORS AND GOVERNORS-GENERAL

The letters to Governors-General and Governors were collated by - Tony Symonds
"Nyora"
7225 Toowoomba-Karara Road
Karara Q4352
Phone: 07 4667 4172

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Digitising of the collection and *"Your Will Be Done"* Was completed by -
Louis Cook
Numurkah Victoria 3636
M.Phone 0429 429 866

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Arthur Chresby (MP [Griffith, Qld], LIB, 1958–1961)

Arthur Chresby enlisted with the AIF on 11 June 1941. He served at AIF Headquarters in Australia for the duration of his service, receiving promotions to corporal on 2 January 1942 and lance sergeant on 29 April 1942. He was discharged on 3 March 1944

Arthur Albert Chresby (6 February 1908 – 25 August 1985) was an Australian politician. Born in New South Wales, he attended state schools before becoming a journalist, then a car salesman, and finally a public relations consultant. In 1958, he was elected to the Australian House of Representatives as the Liberal member for the Queensland seat of Griffith, having previously contested the seat as a Services Party candidate. He was defeated in 1961. He had some association with the Australian League of Rights and its leader Eric Butler.[1] He went on to write an information booklet 'Your Will Be Done[2]' that was aimed at informing Australians of their electoral rights and obligations in an attempt to maintain the rights of everyday Australians. He maintained that the government and public representatives had as their sole purpose and duty is only to act upon the will of the Australian people, not political factions. He died in 1985.[3]

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A Draft for a Suggested "Speech to the Nation", by the Governor-General

28-02-1973

It is a precept of the constitutional conventions (conventions are *non-legal rules of* the constitution) that the Governor-General of Australia must stand outside of and above all controversy, be it political, religious or otherwise, more especially so where controversy impinges upon the Institution of the Monarchy and/or Office of the Governor-General.
As a general rule for a Governor-General's constitutional conduct I strongly hold it to be thoroughly sound. It is one which I have always endeavoured to observe and will continue to do so, except where in so doing it would clearly trespass the legal duties, obligations and responsibilities of the Governor-General as written into the Australian Constitution.
There is an area, however, where the unthinking application of this general rule will cut clean through the very roots of the peoples' *most cherished* and strongly *held democratic belief,* namely:

> that it is the inherent right of the Australian people, as *often and as freely as they wish, to* reprimand and replace those whom they desire to govern them and, just *as freely,* to reject what parliaments and governments may do.

Section 5 of the Australian constitution proper provides, amongst a number of other things, that the Governor-General may, as he thinks fit, dissolve the House of Representatives.

In the stresses of our daily lives, each one of us goes his or her way unmindful, and generally unknowingly, of the fact that:

> without people there can be no parliaments, no governments, no thrones, no governors general; everything must flow from the people and BACK to the people; no interference with this complete freedom of action would ever KNOWINGLY and WILLINGLY be tolerated by us, for it is *only the absence of all knowledge* and *understanding of the checks and balances freely available* that lead us to unsuspectingly succumb to emotionally charged clichés.

It is in this area. that, under the written Australian Constitution, the Governor-General has a legal and moral duty to preserve inviolate the inherent rights, constitutional authorities and powers of the People of the Commonwealth of Australia, as distinct from the several States, for he is, by that Constitution (Section 61) and other documents, the sole custodian and guarantor of those rights.

If you, the People, do not know *what are* your rights, authorities and powers how can you possibly identify any intrusion into, or pollution of, them? I believe it is my obligation to make you aware of their existence, leaving to you, in your daily pursuit of life, liberty and happiness, the freedom of choice in applying them against what you may feel to be, *at* any time, any curtailment of them as a consequence of any excesses or extremes of overzealous Parliamentarians and Senators. This obligation I now proceed to discharge.

In the long dim past the people won from the King, for all time, a pledge that, on his ascent to the Throne, "The King would do no wrong; the King would ever do right by the people." This

pledge is renewed by every successor to the Throne, and by every Governor-General taking Office.

What are the checks and balances, which are available to the people at any time ***they choose,*** under our hard-won system of democracy? The Institution of the Monarchy, in itself, ***embodies all and every power and authority*** needed, at any time, to give full effect of the clearly, expressed will of the people on any issue or thing.

> These powers and authorities ARE HELD IN PERPETUITY by the Monarch, for and on behalf of the people, and can be used by the people on demand.

It was thus that Magna Charta took from the Monarchy the divine right to PERSONALLY INTERFERE with the rights and liberties of the people. It was thus that Magna Charta impressed on the Monarch the duty and right TO INTERCEDE FOR AND ON BEHALF of-the peoples' rights and liberties in every respect. These powers to do right by the people have, by the Australian Constitution and by Royal Letters Patent and Royal Instructions, been invested in the Governor-General ***and are untouchable*** by Parliaments EXCEPT BY THE WILL OF THE MAJORITY OF THE PEOPLE, EXPRESSED CLEARLY AND SPECIFICALLY, ASKING PARLIAMENT SO TO ALTER OR CONSTRAIN SUCH POWERS.

In simple language:

> the powers and authorities inherent in the Monarchy and the Office of the Governor-General, added to those in the Australian Constitution, ARE THE BRAKES BY WHICH, AT ANY TIME THEY CHOOSE TO APPLY THEM, the Australian People can halt the machinery of parliament and government for overhaul, instruction or change.

The Office of Governor-General, in this sense is that of the PROTECTOR and, it is most probably true that, SO LONG AS YOU KNOW that your right to apply the brakes at any time you choose is always available to you, then you may not need to exercise them. BUT THE KNOWLEDGE THAT IT IS THERE is, at one and the same time, A REAL SECURITY TO YOU and an ever present warning to the Houses of the Parliament that there is no guarantee that they will be allowed to run their allotted three years, if the people should decide otherwise.

Members of the House of Representatives and the Senate may come and go; doing what they conceive to be right in the light of their partisanship. But the Institution of the Monarchy and the Office of the Governor-General, under our Australian Constitution, remain perpetually the true repository of the powers and authorities of the people; the only peaceful insurance against all excesses of enthusiasm and extremes of the application of power and authority.

The Governor-General, by the written constitution, is legally bound to give effect to the clearly expressed will of the majority of the people upon any issue at all times, whether that will is expressed through the machinery of Parliament or by direct constitutional procedures. This is the peoples' true heritage. This is their only SAFEGUARD against any complacent parliament, surrendering the peoples' powers and authorities without the specific consent and authority of the Australian People.

I have no doubt that each and every one of us would want to pass on this heritage, in

tact, to our children and our children's children. Therefore, I ask you never to be misled by arguments that the Office of the Governor-General is an outmoded, useless hangover from the past. For it is, a vital and living part of our rights to self-government.

N.B.: This suggested:

"SPEECH TO THE NATION"
by a Governor-General, was specially
written by Arthur A. Chresby and
forwarded to the then Governor-General
on 28th February 1973.

Letter to Air Marshal Sir Colin T. Hannah., K.C.M.G., K.B.E., C.B.,

19th August 1974

Arthur A. Chresby
Research Analyst Constitutional Law
"Rose Villa"
Sharp Street
Crow's Nest Q. 4355

19th August 1974

His Excellency
Air Marshal -Sir Colin T. Hannah., K.C.M.G., K.B.E., C.B.,
Governor in and over the Sovereign State of Queensland,
Government House,
BRISBANE. 4000

Your Excellency,

Relevant to my initiation, in March, of a public campaign of Petitions Praying Your Excellency to have Her Most Gracious Majesty, Queen Elizabeth 11, appointed .IS Queen Monarch of Queensland, and the reaction of the Governor-General of the Commonwealth of Australia in approving the issue of a High Court Writ against the Queensland Government and the Attorney-General and Minister for justice thereof, the following Submissions are most respectfully presented for Your information, consideration and such action as You feel moved to take:

1. By Clause 9, Sub-sections (1) and (2) of the "Statute of Westminster", 1931 (22 Geo. V., Ch.. 4), the legislative and regulatory powers and authorities possessed by the parliament of the State of Queensland prior to, and at, the establishment of the Federal Commonwealth of Australia *are reserved inviolate to the said State,* excepting those transferred and embodied in Clause 9 of the "Commonwealth of Australia Constitution Act", 1900 (63 & 64 Vict., Ch. 12).
2. Sub-Section (2) of Clause 9 of the said Statute of Westminster fully *reserves to the Parliament of the United Kingdom of Great Britain ALL* and every legislative and regulatory power and authority *over* the Constitution and Parliament *of* the State of Queensland which the Imperial Parliament possessed and enjoyed at the creation of the said State and which is also embodied in "The Colonial Laws Validity Act", 1865 (28 & 29 Vict. C. 63) as, and if, amended by the said Imperial Parliament.
3. Clause ll of the said Statute of Westminster changed the expression "Colony", as and from 11th December, 1931, to "State" in any legislation referring to a State of a Dominion. Thus in respect to the six States *of* Australia the word "Colony" in the "Colonial Laws Validity Act" means and shall be taken to mean the "States Laws Validity Act".

4. By Clause 9 of the said Statute of Westminster certain provisions of the Queensland Statute, entitled "Constitution Acts of 1867 - 1968", and any subsequent amendment thereof, are completely protected and secured to the Parliament *of* Queensland against any intervention of the Parliament of the Commonwealth of Australia. Inter alia, the principle provisions are:

a) The Statutory confirmation *of* Sec 22 of the "Order-in-Council" of Queen Victoria, dated 6th June, 1859, creating the State of Queensland and identifying the powers and authorities of the Parliament of the said State.

b) Letters Patent of Her Majesty, Queen Victoria, dated 6th June, 1895 (and subsequent amendments thereof, saving that of 29th October, 1900, which was revoked) creating the Office of Governor and of an Executive Council, and the relationship thereof.

c) The Royal Instructions to the Governor of Queensland of Her Majesty Queen Victoria, dated 6th June, 1859, and the various subsequent amendments thereof relating to the duties, powers and authorities of the Governor

5. By the said "Order-in-Council", "Letters Patent", "Royal Instructions to the Governor" and the Statutes 1867-1968 (and any subsequent amendments thereto) the Parliament of the State of Queensland, saving contrary determinations of the Supreme Court of the said State, without reference to the Electors of Queensland has full and complete authority, save where it binds itself, to amend, alter, change or add to the Constitution of the said State subject only to Royal Disallowance and or contravention of the "Colonial Laws Validity Act" and or superior-legislation enacted by the Imperial Parliament aforesaid.

6. With respect to legislation, or superior legislation, of the aforesaid Imperial Parliament *relating directly to the constitution of the said State its Parliament and its People, the RIGILT of direct approach to the Queen and or the Queen in Council, i.e. the Privy Council has always been secured to the said State,* and in those matters there exists no power or authority in the Constitution of the Commonwealth of Australia and or its High Court to intervene or prohibit such an approach.

7. Prior to the ratification of the said Statute of Westminster, in 1942, by the Commonwealth Parliament that Parliament itself, the Commonwealth Constitution non obstante, was subjected to the provisions of the "Colonial Laws Validity Act". After the said ratification Clause 2 (1) of the Statute of Westminster stated clearly:

> 2 – (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made AFTER the commencement of this Act by the Parliament of a Dominion."(my emphasis)

8. However, Sub-section (2) of the Statute of Westminster does not, and cannot, give the Parliament of 'the Commonwealth any power to alter, amend of repeal any existing and or future Imperial Statute, Order-in-Council, Letters Patent, Royal Instructions to the Governor, Rule or regulation relating to the powers and authorities of the State, not being a power or authority resident within the Constitution of the Commonwealth. Any attempt by the Commonwealth

Parliament, and or the High Court, to inhibit the exercise of the said State of such Imperial legislation, and etc., automatically grants the State the right of direct approach to the Privy Council notwithstanding any contrary legislation of the said Commonwealth Parliament, Section 4 of the Statute of Westminster non obstante.

9. As the State of Queensland is bound to the Imperial Monarchy by the said Colonial Laws Validity Act, and as submitted in para. 5 above, the Parliament of the said State, *without arty necessity* of *an approach to the* Supreme Court of Queensland, nor authority of the High Court, *can of its own volition* alter the Constitution of the said State to appoint Her Majesty as Queen Monarch of Queensland. Only, and only, the Imperial Parliament can revoke such an appointment as of its superior legislative power. I n the case of such a revocation, as aforesaid, the Queensland Parliament has a direct approach to the Queen and or the Queen in Council and it is beyond the authority of the Governor-General of the Commonwealth to issue a Writ of prohibition out of the High Court.

10. The Parliament of the State of Queensland has already, in principle, exercised its lawful Constitutional Powers by amending the said Constitution with respect to the enactment of "The Royal Powers Act of 1953" (2 Elis. 2.. No. 29). It would be against the natural reason of law for the Queensland Parliament to have authority to confer certain powers and authority upon Her Majesty and not have the power to make the said appointment. The Royal Powers Act does not, and cannot, in effect, demote Her Majesty to the status of "Governor" in the exercise of the powers and authorities granted under that Act for, assuredly, when so exercising such powers and authorities Her Majesty is in law and in fact, vide aforesaid Letters Patent and Royal instructions, performing Her duties and functions legally as the Queen of Queensland. *The enact*ment of an appointment Act is in fact a machinery Statute, as was the Royal Powers Act, to avoid any possible doubt that Her Majesty is the Queen of Queensland.

11. The sole executive power of the Commonwealth of Australia is vested in the Office of Governor-General as the Queen's representative, vide Sec. 61 of the Constitution of the Commonwealth. Section 11 of the Letters Patent of 10th June, 1925 constituting the Office of Governor and Section VI of the "Royal Instructions to the Governor" vest the Executive power of the State of Queensland in the Office of Governor. It is therefore within the lawful power and authority of Your Excellency to request of the Governor-General of the Commonwealth his reasons for attempting to restrain Your Excellency from directing the Parliament of Queensland to enact the said appointment legislation, more particularly so as the Governor-General approved similar legislation in the Commonwealth Parliament for the appointment of Her Majesty as Queen Monarch of Australia, that is the Commonwealth of Australia.

12. With respect to the aforesaid Writ. The points raised therein are, of course, NOT as to the lawful power of the Parliament of the State of Queensland to enact the "Appeals and Special References Act 1973", but as to the validity of the exercise of certain provisions thereof.

13. With respect to the Writ, it is most respectfully submitted that Your Excellency should direct that the motion before the Supreme Court be immediately withdrawn for, as aforesaid, the Motion is entirely unnecessary for the purpose, which it purports to achieve. It's withdrawal would leave the Commonwealth Cabinet and the High Court with, "no case to answer". If the Governor-General wishes to pursue it further then, of course, a writ would have to be issued that the Queensland Parliament had no constitutional power to enact any legislation with respect to its relationship with the Privy Council. A different issue altogether. The action of withdrawing the Motion from the Supreme Court would not constitute a volte-face on the part of the Governor in Council. On the contrary, it would be only a tactical legal maneuver for the objective of the Motion was the appointing of Her Majesty as Queen of Queensland. The straight out enactment of the necessary legislation achieves the same thing, with a difference. The first action asks "Can We?" The Second says "We Have!" For the Commonwealth to have made the Queen, Queen Monarch of Australia and then try to have a similar appointment for Queensland annulled, when it has no constitutional jurisdiction in this area, it being a matter that can only be decided by the Imperial Parliament, would not only be fascinating but would arouse strong resentment by the Queensland People against the Commonwealth.

14. It is axiomatic that, *as a general principle and rule,* the Governor cannot be concerned with party politics. However, *when a political party in another constitutional area* deliberately used the constitutional office of the Governor-General, on the basis of the "convention" that the Governor-General MUST do as he is told by the reigning party, *in an endeavour to abort Your Excellency's power and authority to* uphold, maintain and prosecute the Constitution, Laws and authorities of the Parliament and the People of the State of Queensland and or to completely destroy them, then Your Excellency by the terms of Your Office is legally bound and obligated to take notice of such an act of legal and political war against your State. To refuse to do *so,* I most respectfully suggest, would be tantamount to a grave dereliction of official duty and obligation to Her Majesty. (I use the word 'war' in the technical sense of "Any action taken to impost your will upon some one else, or to prevent them from imposing their will upon you".)

15. A thorough analysis of the famous Constitutional crisis in New South Wales, when the then Governor Sir Phillip Game was placed in the most embarrassing and humiliating position of having to dismiss his Premier, the Hon. J. T. Lang (who had tile support of the electoral majority) will reveal that, although the details and circumstances are different, the identical constitutional maneuvers and political stratagems are being used by the Commonwealth Cabinet to force Your Excellency into the same situation with Your Chief-Executive Office, the Premier of Queensland. The High Court Writ is just one of those maneuvers, for if they can pressure Your Premier into what can he construed to be a defiance or contempt of the High Court then, as You are bound to uphold law and order, You would have no alternative than to (a) dismiss "Your Premier and ask the

House of Assembly to recommend another, or (b) dismiss tile Ministry and dissolve the present Parliament.

16. By withdrawing the Motion from the High Court Your Excellency carefully avoids the objectionable maneuver, outlined above. By requesting of the Governor-General of the Commonwealth the information suggested in para. 11 above, Your Excellency, at one stroke, lifts the question out of the murk of party-politics and places it on a level of lawful dialogue between tile two Constitutional legal Heads of the Commonwealth and the State, with a final right of appeal from either or both to Her Majesty, with the Ministers of both constitutional jurisdictions having no legal power to interfere. A rather unique, but perfectly lawful and constitutional action.

17. The action suggested in Pars.'s 11 and 16 above, would at once give the lie to the carefully nurtured propaganda, espoused by certain political leaders and their adherents, that the Office of State Governor is completely useless and unnecessary for it is only "a rubber stamp" to be used by the reigning party to give the semblance of sanction to the party's decisions. It would also show the Queensland people, and the Members of the House of Assembly, that the Office of the Governor is a very powerful and constitutional PROTECTOR of the Queensland People, their Parliament, their rights and their laws. That in fact, as well as in law, it is the Governor himself who is the Government, not the Ministers, who are purely his advisers.

18. As stated in Para. 14 above, the Ministers of the Commonwealth Crown, operating behind and through the Office *of* the Governor-General, have declared political and constitutional “war" against the State *of* Queensland with the objective of destroying that State first, and then the rest of the States, in order to centralise all political, constitutional and legal power in the Commonwealth Parliament as the essential prerequisite of eliminating the Commonwealth Constitution and the establishment of an Australian Republic. It is axiomatic that a Republic cannot exist alongside six Monarchical States. The existence of one means the complete destruction of the other. *Until the People of Queensland are given irrefutable evidence that the Office of Governor is a truly vital force and necessity in their lives, then they can and may succumb to the dazzling picture of what an efficient Republic can achieve.*

19. As the Office of Governor is the central legal pivot of the Monarchical system of the Government of Queensland it is axiomatic that, no matter how much the occupant of that office desires not to become involved in the abovementioned "war", Your Excellency has no legal alternative otherwise, in the eyes of the People of Queensland, negative action on the part of the Governor gives full credence to the current propaganda that the office is useless and is merely a "rubber stamp". For Your Excellency not to stand firm with strong resolve that it is the sole and inherent right of the Queensland people to decide who shall bind them and how they shall be bound and that they shall not be pilfered at the dictates of another and different constitutional jurisdiction would be seen to be a withdrawal from the Governor's legal role as the *PROTECTOR.*

20. The move, which I initiated, to have Her Majesty appointed Queen Monarch of Queensland is a move to strengthen the Office of Governor and the power and authority of its occupant, and renders extremely difficult, if not impossible, the achievement of an Australian Republic. With this State taking the lead the other States will be encouraged to follow for the people of those States will demand to enjoy what Queensland enjoys. Thus the leadership of Queensland will abort any Commonwealth move to destroy the Monarchical system of Constitutional and Parliamentary government.

21. I would therefore again, most respectfully submit that it would be in strict line with Your Excellency's lawful duties and obligations to direct Your Executive Council to initiate in the House of Assembly the necessary legislation appointing Her Majesty as aforesaid. This could be done by an amendment to the "Royal Powers Act, 1953".
    In view of the appointment which the Commonwealth made, the State Parliamentary Opposition would find great difficulty in logically refusing to follow the Commonwealth lead by doing the same in the State.

22. Thus by the above moves Your Excellency, as aforesaid, would immediately strengthen and further Your office as the PROTECTOR of the rights, customs, liberties, freedoms and securities of Her Majesty's Queensland Subjects against all the vagaries and weaknesses of party dictatorship of the Parliament of Queensland, both from within and without. You would at once establish a concrete basis for tile *UNITING* of the *Queens*land People and the Monarchy, for with a Constitutional Monarchy, such as ours is, *THERE NEVER COULD BE A QUEENSLAND "WATERGATE".* But a Republican Government, which can *only be a party* Government, is open to every form of corruption, mismanagement and dereliction of duties and responsibilities to its people, as the world history of Republics has clearly shown.

23. I would respectfully submit that, for the further protection of the People of Queensland, legislation should also be enacted that the Parliament of the State of Queensland cannot refer any of its constitutional power or authorities to the Commonwealth *WITHOUT FIRST* submitting each of the points involved to a referendum of the Queensland People; that in each case of referral it shall only be for the life of the State Parliament and, if desired, must be again submitted to referendum by each succeeding State Parliament. Cumbersome and irritating to political parties no doubt, but a sure and certain safeguard for the People that no State Parliament can ever surrender any of the State's Constitutional power or authorities without the specific consent of the Queensland People themselves. This action would have the further safeguard that under the Commonwealth Constitution the Queensland Senators, irrespective of affiliations, would be lawfully required to uphold the rights, etc., of the State of Queensland in the Senate.

24. The question of the Queensland Parliament enacting complementary laws to those of the Commonwealth Parliament should be placed on the same basis as that outlined in para. 23 above. Expediency should not be allowed to replace the absolute certainty that the Queensland people shall never ever lose their Constitutional powers and authorities.

25. When the Parliament of the Commonwealth of Australia ratified the Statute of Westminster 1931, in the war year of 1942, it gave to itself the absolute power and authority, without the consent of the Australian People or the States, to request the Imperial Parliament to enact any Imperial legislation adding to or deleting from the Commonwealth Constitution; or to repeal any Imperial Legislation relating to the Commonwealth AS A *CONSTITUTIONAL* unit (but not the States). By Section 4 of the said Statute, the Commonwealth Parliament can request the Imperial Parliament to repeal "The Commonwealth of Australia Constitution Act", 1900 (63 & 64 Vict., Ch. 12), the 9th Clause of which embodies the whole of the working Constitution of 128 Sections, under which tile Australian People are born, live and die.

26. Thus in order to set up a Republic the Commonwealth Parliament MUST legislate to ask the Imperial Parliament to repeal our Commonwealth Constitution Act and, I respectfully repeat again, WITHOUT the specific consent or authority of tile Australian People and or the six States. There are some who contend that the Imperial Parliament is not obliged to accept such a request from the Commonwealth Parliament. However, and I prefer to accept their view for this purpose, the acknowledged leading socialist constitutional lawyers and authorities, such as Evatt, Laski, Wolff, Cripps, Jennings and, I understand, Cowen hold the view that the Statute of Westminster binds the Imperial Parliament to accede to such a request.

27. This means that upon such a repeal of the Commonwealth Constitution, the political party in "office" takes over full unchallengeable control of the entire constitutional machinery of the Australian Commonwealth, i.e., The Parliament, the Departments, the Public Service, the Commonwealth Bank, the Defence forces and etc. There would be no Governor-General and the High Court would cease to function, at least with respect to its original jurisdiction. Whatever the reigning Party decided to enact as law would be the constitution of the country, and, unless they choose to do otherwise, they could legitimately legislate to keep their party in power in perpetuity. Thus short of a "coup" the Australian People would be powerless to peacefully effect a change.

28. It is axiomatic that the Commonwealth Cabinet, striving to use the Governor-General as "..... a mere tool in the hands of the dominant party", would not legislate for such a repeal *WHILST* the six States remained Monarchical States as, apart from any consideration of workability, the essential powers for complete centralisation still remain in the Constitutions of the said States.

29. Of a practical necessity, then, a party desiring to use the machinery of the Statute of Westminster must first use every conceivable form of direct and indirect legal, political, financial, economic and industrial tactics possible to destroy the workability of the constitutional machinery of the several States. By aborting the capability of the States to fulfil their proper constitutional role and functions the reigning Commonwealth Cabinet places itself in the strategical position, if the political climate has been properly manouevred, to ask the Australian People, by referendum, to dissolve the State Machinery and grant the central Government sole power as the only effective capable body to give them employment, security,

education and homes. The patterns of this strategy are already showing up as being implemented.

30. However, should the political climate be deemed not suitable for a referendum, the Commonwealth Parliament could, and probably would, be maneuvered into requesting the Imperial Parliament, vide Section 4 of the Statute of Westminster, to dismantle the State system of Parliamentary Government in favour of one central Australian Government - as a prelude *for a* request to repeal the Constitution aforesaid. The grounds for the destruction of the States would be that as these States had shown , their complete incapability to govern in the interests of their people, a situation was being reached that unless a strong central Government took over the entire reigns only anarchy, bloodshed and revolution could result. To achieve the results outlined in para's 26, 27, 28, 29 and 30 above, many artifices could, and in my humble opinion as a researcher will, be used. Inter alia, the following are some of the chief ones:

a) (a)By direct action, or non-action, encourage every inflationary move that will, through the taxation system, build up the financial reserves of the Commonwealth Government.

b) (b)Having initiated the stimulation of the inflationary move, to ensure effective disruption of the productive and distributive areas of the Nation and to make it, *except for the lucky few,* almost impossible to obtain employment in the field of one's own choice and capabilities. Then in order to give employment, to re-train the "displaced" persons in activities and in areas of the "Cabinet's" choosing.

c) (c)Since the Commonwealth Parliament has *no direct* constitutional power with respect to "unemployment" then, by the skillful use of Section 96 *COMBINED* with Section 51, Placita (xxxi), (xxxv) and (xxxix) that Parliament can then "indirectly", of course with the extra assistance of the by-product combination of Placita's (i), (iii), (xiii), (xiv) and (xvii), intrude completely into the prerogatives of the States in the matter of "un-employment" and thus by virtue of Section 109 annul any State legislation in and on this subject matter.

d) (d)At first sight (c) above seems legally unreal BUT no one seems (outwardly at least) to be looking at the possible combinations, and powers and authorities that can be attracted by those combinations with Placita

e) *(xxxi), THE ACQUISITION POWER OF THE COMMONWEALTH.* (Those *who* would dispute the legal efficacy of these indirect constitutional methods would do well to study the Peden Royal Commission into the Australian Constitution).

f) (e)At this point it might be of advantage to note that, ever since the Bank Nationalisation Case, the leaders and adherents of the present Commonwealth Cabinet have gone to great pains to stress that, even if they wanted to, they have no power to nationalise anything. Of a consequence the plank in their printed platform of "The socialisation of the means of production, distribution and exchange" cannot be achieved and has no meaning. What everyone is positively silent on, *on both sides of the Parliament,* is that by Placita (xxxi), combined with the others, the Commonwealth Parliament can acquire property,

land, businesses and so forth and thus achieve the objectives of the meaningless plank by acquisition with the financial reserves built up through taxation of the deliberately permitted wage and salary escalations.

g) (f)In rural areas to make conditions of survival so unbearable and or impossible ((except to the lucky few, and think over the connotations of the words "lucky few") that the man on the land is forced to sell out and or walk off and seek employment in the big cities. An "offer" from the Commonwealth to any lien-holder to acquire that land (be it freehold or State Crown Land) and or other property at a "just" consideration will seldom meet with refusal. The pattern of the policies being applied to the man on the land can be better appreciated and seen in its full and correct interpretation by a serious study of "The Policy of Eliminating the Kulaks as a Class", pages 322-325 (inclusive) of"). Stalin on Problems of Leninism", published by the Foreign Languages Publishing House, Moscow, 1945.

h) (g)Where businesses, and etc., are unable to carry on because of the restrictions of Union, legislative and financial pressures then, in order to *SECURE EMPLOYMENT,* to "acquire" such enterprises.

i) (h)An alternative pre-acquisition strategy is to drive the smaller business, and etc., into the structures of big combines, thus creating "private" monopolies. Then, on the plea that it is not in the interests of tile Nation for "private" monopolies to control and dictate the employment and the economy, to acquire the monopolies. This technique is now obviously being very quietly stimulated.

j) (i)By the skillful application of various "pavlovian" techniques, to daily encourage the minds of the Australian People the firm belief that, *except for the "lucky few",* because of the speed of the scientific and technological development there *NO LONGER EXISTS THE NORMAL RIGHT OF THE INDIVIDUAL* to choose his own vocation; that because of this development people will no longer, if they wish to be re-trained and find jobs, be able to live where they like. They will have to go where the jobs, home and schooling have been created, like it or not. The pattern of the C.C.C. formulae in the last war is the basis for "job training and job security."

k) Article 12 of the Russian Constitution states:

31. "In the U.S.S.R. work is the obligation and a matter of honor of every able-bodied citizen, in accordance with the principle:
'He who does not work, neither shall he eat.' In the U.S.S.R. the principle of socialism is realised: From each according to his ability, to each according to the work performed.'
Your excellency is invited to consider well the full import of those "principles" in relation to Your own Constitutional role as the *PROTECTOR* of the People of Queensland.

32. The present Commonwealth Cabinet has been able to press on with these techniques and artifices because their basis was laid down in the last War by the then Commonwealth Attorney-General and Minister for External Affairs. Under the stresses and pressures of that War the Premiers of the six States were

persuaded to accept, as an essential principle and article of faith, that only by regionalisation, and all that that implies, could survival after the war be guaranteed by the Commonwealth and that the Commonwealth would have to have the final say and control in co-ordination and determination.

33. Naturally, if a State Parliament does not "co-operate" to the degree required by the Cabinet of the Commonwealth, Section 96 and Section 51 (xxxix) are maneuvered and utilised to that State's very distinct disadvantage.

Your Excellency, this has been an unusually long, and perhaps tedious, presentation of the Law and facts, both observable and provable. *The basic reasons for the .above submissions,* however, rest upon those advanced and implied by a world famous former judge of the Australian High Court, who is acclaimed and acknowledged as one of our greatest constitutional authorities. I refer, of course, to the late Mr. justice H. V. Evatt, who, in his authoritative thesis, "The King and His Dominion Governors" (published in 1936) stressed inter alia:

> "Yet situations may arise in which the exercise of reserve power will be the only possible method of giving to the electorate an opportunity of preventing some permanent and far-reaching constitutional change. A convenient illustration of this is afforded by proposals of Dominion Governments to extend the life of the Legislature, and indirectly their own lives. If given command over the parliamentary position, there is no saying to what lengths certain persons may not be prepared to go in the exercise of legislative power.. . ." - page 198 -
>
> "It is sufficient to make the point that, in the interests of the people, and because of the absence of controlling constitutional provisions requiring great changes. to be endorsed by vote at a referendum, some reserve authority may have to be exercised to prevent the abuse of legislative power, and to require great changes to be submitted for popular approval.. . ." - page 199 -
>
> "8. The powers of a Legislature may be used in such a way as to destroy in advance the effectiveness of subsequent electoral verdicts. Parliament may hind its successors, and by creating unfair or even grotesque restrictions upon change, make the alteration of certain laws virtually impossible. . . ." - page 296 - "
>
> . . . But, even in such cases, the Parliament is the Parliament for the time being
>
> only, and it does not necessarily reflect the will of the electorate for all purposes and at all times (my noting: so *much for the much vaunted claim of mandates. ")* It will therefore have to be considered by the Dominion peoples whether special safeguards are not required to prevent a complacent Parliament from surrendering constitutional powers by the method permitted by sec. 4 of the Statute of Westminster and without the specific consent or authority of the Dominion people concerned. . . ." - page 298 -
>
> "It is obvious, therefore, that it never safe to rely upon the application of mere constitutional usages, no matter how authoritative the documents by which they are evidenced. . . . the difficulty raised by the reference to the

'Conventions' is much greater because it is impossible to say what the 'conventions' are and where they may be found. . . ." - page 304 -

". . . Surely it is wrong to assume that the Governor-General for the time being will always be a mere tool in the hands of the Dominant party?

. . ." - page 305 Note that His Honour's use of the term Governor-General is also to be read as "the Governor for the time being . . ."

In view of the current fuel situation, and of a consequence my inability to utilise professional typing services in Toowoomba in the preparation of this communique, will Your Excellency be so gracious as to overlook my many typing errors?

I have the honour to be Your Excellency's humble servant.

Letter to The Honourable Sir John R. Kerr, K.B.E. C.M.G
14th October 1974

His Excellency,
The Honourable Sir John R. Kerr, K.B.E. C.M.G.,
Governor-General, and Commander-in-Chief
In and Over the Commonwealth of Australia,
Government House,
CANBERRA A.C.T. 2000

Your Excellency,

Further to my letter to you of June 27 last, as Governor-General Elect. Your Excellency will recall that I respectfully brought to special attention certain vital _constitutional views, expressed by the late Mr. Justice H.V.Evatt - when he was a Member of the High Court Bench - in his acknowledged authoritative Thesis: "The King and His Dominion Governors," relating to your own high legal office, as Governor - General, under the Constitution of the Commonwealth of Australia.

The sole purpose of this present letter, Sir, is to assist you

in every possible lawful way in UNITING the whole of the Australian People with the Institution of our Constitutional Monarchy, Governor - General and State Governors, THROUGH A CLEAR UNDERSTANDING of the true legal role, power and authority of that Institution, and those Offices, as the TRUSTEE, and PROTECTOR, of the rights, securities and freedoms of the Australian People from the machinations of political parties gone beserk in their inter-fighting for political power.

1. On the night of 2nd. June, 1953, (see Brisbane "Courier Mail", 3rd. June, 1953, p.6.) just 21 years and 4 months ago, 25,000 Queenslanders assembled in the Brisbane Exhibition Grounds on the occasion of the Coronation of Her Majesty, Queen Elizabeth 11. At the request of the then Deputy Labor Premier of Queensland, the Honourable J. Duggan, now Deputy Mayor of the Toowoomba City Council, these 25,000 followed him in making a very solemn pledge of loyalty and dedicated Service to Her Majesty, now Queen Monarch, in Her own Right In and Over the Commonwealth of Australia and of whom you, Sir, by virtue of the said Commonwealth Constitution, are the sole legal and constitutional representative (Commonwealth-wise and in whom, on Her behalf, is vested the sole le al Executive Powers of the Commonwealth. No doubt, somewhat similar assemblies and expressions of fealty took place throughout this vast Nation on that memorable day in our history.

2. Since that date, in particular, a deliberate "war" has been, and is being, waged in Australia to completely destroy the Australian People's ALLEGIANCE TO, faith and belief in, that Monarchy and the Offices of Governor-General and State Governors. Trained in the laws of evidence, as you are Sir, you could not possibly deny the existence of that "war" and the identity of its chief protagonists.

3. Indeed, Sir, your Chief Minister of the Crown, the Hon. E. G. Whitlam, M.H.R., Q.C., aided and supported by the rest of the Federal Ministers of the Monarchy and in complete disregard for, and clear contravention of, each of their individual Oath's and Affirmation's of Allegiance to that Monarchy, have made publicly clear their determined intention to replace that Monarchy, your Office and that of State Governors with a party-controlled Presidential Republic. Respectfully, Sir, may I suggest that, in view of your own Oath of Allegiance, Knighthood and legal tie with the Throne, you may care to forcibly remind your Ministers of the alternative to so blatant a contravention or breech?

4. No ordinary citizen may breech Allegiance without penalty. Ministers and Politicians must therefore be reminded that, as the law makers, they cannot be permitted to allow their committed legal Allegiance to be treated as a mere mechanical form of no substance nor significance whatever. (By the way, Sir, "War", as used in the context of this letter, is defined as: "any action taken to IMPOSE your will upon someone else, or to STOP THEM from IMPOSING THEIR WILL UPON YOU.")

5. As I said, inter alia, in my letter to you of June 27: " ... an evaluation of the pattern of events that will occur in the political/constitutional field clearly indicates that no previous Governor- General, in peace time, will ever have experienced the burdens that are to be your lot. ....when these burdens come your way, the "conventions and usages" will become your constitutional quagmire should you choose that path. ...".

6. In their unrelenting determination to force Australia to disown the Monarchy in favour of a Republic (which can only be done by legislation without the specific consent or authority of the Australian People or of the States, REQUESTING the United Kingdom Parliament to REPEAL the Commonwealth Constitution), your Ministers of the Crown have placed Your Excellency in a completely intolerable legal constitutional and moral relationship to your own legal obligations to the Institution of the Monarchy and the written Constitution of the Federated Commonwealth of Australia.

7. It does not require the services of a "constitutional psychic" to reveal that the success of your Ministers Republican plans rest WHOLLY upon whether they can make the Governor-General "a prisoner and tool" WITHIN "the walls" of the so-called "constitutional conventions", or tacit understandings of opposing political parties" : conventions the soundness of which, even so eminent authority as, the late Mr. Justice H.V. Evatt strongly questioned. (vide p.304, 1st.Edition, of his aforementioned thesis.)

8. Your Excellency cannot deny that Ministers of the Crown consistently insist that THEY, AND ONLY THEY, have the constitutional power and authority to ADVISE YOU because THEY, and ONLY THEY, have received a "mandate" from the People "to govern"; that any move on the part of the Governor-General (or State Governor as the case may be) to refuse that advice, or to seek other, would he A DIRECT REFUSAL TO OBEY THE "WILL" OF THE PEOPLE. Your own deep knowledge of "legal" law reveals, of course, that these claims are sheer political humbug WITHOUT ONE OUNCE OF "LEGAL" BASIS. It is purely a tacit "understanding" between political parties for their own convenience and self-preservation; claims which hide the truth from the Australian People.

9. You, Sir, allow that ONLY the Governor-General (or State Governor, as the case may be) LEGALLY GOVERNS: that ONLY the Governor-General (or State Governor) has a LEGAL "MANDATE" TO "GOVERN" (a permanent Government). The Electors can no more elect or defeat a Government than they can elect or defeat Ministers of the Crown. As you are aware, Your Excellency, but the Electors ARE NOT, there is NO known authority in law that can FORCE a Governor-General and or State Governor TO ALWAYS ACT ONLY UPON THE ADVICE OF HIS MINISTERS. Once again, this is a mere tacit understanding between the leaders of parties. An "Act of Parliament" can, of course, bind a Governor-General or State Governor, on a particular thing or subject, to act only with the advice of his EXECUTIVE COUNCIL

10. However, most Politicians, and certainly the vast bulk of the Australian People, do not know THAT AN EXECUTIVE COUNCIL CAN BE COMPRISED OF OTHER PERSONS BESIDES MINISTERS OF THE CROWN. These additional "advisors" are or can be selected according to the personal choice ONLY of the Governor-General or State Governor. That past and present Executive Councils have consisted ONLY OF REIGNING MINISTERS OF THE CROWN is, therefore, NOT DUE to any known legal law BUT ONCE AGAIN purely to a "tacit understanding of party-politics." Thus by party created understandings the Governor-General and State Governors are forced to ignore the law and are restricted in their Executive appointments, thereby robbing the Australian Electors of the checks and balances embodied, for their protection, in the Constitutions of the Commonwealth of Australia and several States.

11. Sir, as you know, the above legal truths have been consistently withheld from the knowledge of the Australian People by the very simple expedient OF NOT DIRECTING ATTENTION TO THEIR EXISTANCE. Over the years, political leaders - of all persuasions -, as well as leaders in other fields, have carefully refrained from imparting that knowledge on the truism that: "What the people do not know they cannot use against the party;" This expediency has been inculcated at all levels of education with the result that every student leaves school and university IN COMPLETE AND ABSDLUTE IGNORANCE OF HIS OR HER TRUE RELATIONSHIP WITH THE MONARCHY, THE GOVERNOR-GENERAL AND STATE GOVERNORS. Thus the student blindly accepts either the sickly sentimental hogwash, served up by well-meaning loyalists, of the skilled deliberate propaganda that the Monarchy, the Governor-General and State Governors are useless costly appendages serving no practical purpose other than as unnecessary "rubber stamps" for the decisions of the reigning party.

12. On the basis of your own legal and moral obligations to the Monarchy I know that you must agree, Sir, that it is time that the Australian People were systematically and completely informed of the above TRUTHS: that within the written Australian Constitution the Ministers of the Crown are the paid administrative servants of the Monarchy and that the Governor-General as the legal representative of that Monarchy IS THE LEGAL BOSS OF THOSE MINISTERS. HE TELLS THEM, they do not tell him. (However nicely they put it.)

13. Constitutionally the legal obligation of the Governor-General, State Governors, Ministers of the Crown and Politicians that, on all major issues at least, they make certain that it is in accord with the clearly expressed "WILL" of the Electors ON THAT ISSUE: to ascertain the Electors' "will" AT ALL TIMES IN ORDER TO OBEY IT, not transgress or ignore it. After all the clearly expressed "will" of the Electors is the only reason or purpose for the existence of our

democratic(?) Parliamentary system. IT HAS NO OTHER. Of course the Politicians and their tribes will howl with their well-known negative clichés and arguments, but that is of no importance, but the "will" of the Electors is.

14. As stated above, Sir, I do not believe that you will countenance the withholding of the aforementioned Truths from the Australian People any longer. That you recognise that the continuance of "this wall of silence" aids, abets, and furthers the "war-aims" of those who are working fast to completely undermine and destroy the Constitutional Monarchial system in Australia BEFORE THE AUSTRALIAN PEOPLE FIND OUT THE FULL MEANING OF WHAT IS BEING DONE?

15. Sir, the issue involved is really very simple, as your Judicial experience has taught you: while a law exists, it MUST be obeyed otherwise there is a penalty involved. The Commonwealth and State Constitutions lay down the legal law which must be obeyed by Politicians, as well as ordinary People . The mere agreement, tacit or otherwise, between parties as to how that law shall apply to them does not absolve them from the full penalties of not obeying the law, IT IS AS SIMPLE AS THAT! An Oath or Affirmation of Allegiance IS A LEGAL LAW and it may not be breeched except by the lawful process of moving to another country and taking on the Nationality of that Country . This law of Allegiance is doubly binding on Politicians and they should NEVER EVER BE ALLOWED TO FORGET IT, otherwise they must accept the penalties.

16. To assist Your Excellency's natural desire that these Truths shall be made available to the Australian People, I most respectfully beg to advise you, Sir, that copies of this letter are now being released:

, To Our future Australian King, His Royal Highness Prince Charles. . To the Chief Justice of Australia for his information when he acts as Deputy Governor-General during any absences of the Governor--General.

. To each State Governor and his Deputy.

. To the Speaker of the House of Representatives and the President of the Senate, with appropriate Petitions that, as this letter touches their dignity, each Member and Senator ought to be given the full opportunity of studying the document in full.

. Likewise to the Speaker and President of each State House of Parliament.

. The Mass Media of Communication for the information of the Australian People.

17. If the Institution of the Monarchy and its Offices of Governor-General and State Governors are to be maintained, with their vast power and authority TO PROTECT the Australian People then, OBVIOUSLY, all who owe Allegiance MUST "stand up and be counted", NOT only on where they stand BUT ON WHAT ACTION THEY ARE TAKING TO FULFIL THE OBLIGATIONS OF THAT ALLEGIANCE.

18. Your Excellency will at once agree that every Australian who has been Knighted should now take an extremely close look at the legal and moral obligations of that Knight-hood. The obligation to stand up and publicly protect the Monarchy from all attacks, both overt and

covert, aimed at undermining the Australian People's Allegiance to that Monarchy; to be relentless and un-resting in fighting the present Pavlovian campaign to FORCE a Republic on the Australian People. Failure of any Knight to do so would be a very grave dereliction of duty and obligation indeed. This letter, therefore, cordially invites such Knights to consider that duty.

19. Through the release of this letter, to the general public, every Australian is invited to write d i r e c t t o Y o u r Excellency, assuring you of his or her full and complete support for every action you take to STRENGTHEN THE UNITY BETWEEN THE AUSTRALIAN PEOPLE AND THE M0NARCHY AS AN IMPENETRABLE WALL AGAINST THE ONSLAUGHTS OF THE " REPUBLICAN ARMY".

20. A unity based NOT upon the quagmire of mass emotion, patriotic flag-waving and pontifical clichés of well-meaning loyalists and those who use loyalty as a cover to work against the monarchy. No, Sir, A UNITY "cemented to the rock of understanding" that the Monarchy, the Governor-General, the State Governors ARE THE GOVERNORS W H I C H T H E AUSTRALIAN PEOPLE CAN APPLY AT ANY HOUR, without having to wait for a general election TO BRING MINISTERS AND POLITICIANS TO A COMPLETE AND SUDDEN FULL STOP for fresh instructions, reprimand or dismissal from the Service of the Australian People.

21. In other words, Sir, the powers and authorities of that Institution, and those Offices, allows the Australian People, in no certain manner, to be brutally frank, and EFFECTIVELY FRANK, with the Politicians. IT gives the Australian People practical power to say to those Politicians:
" Stop telling us what your Party is going to do for us. From NOW ON, WE are going to TELL YOU WHAT YOU are going to do OR ELSE! "

Sir; As you know, the law in the Commonwealth of Australia and in each State lawfully permits the Electors in each State, IF THEY BUT KNEW IT:

"To light a fire 'neath HIS Politician's seat, And that politician WILL SEE THE LIGHT

WHEN HE FEELS THE HEAT;"

I have the honour to be, Sir, your dutiful servant.

GOD *SAVE* THE QUEEN

(Arthur A. Chresby)

Formerly, 1958-1961, a Member of the House of Representatives, for the Commonwealth Electoral Division of Griffith.

Letter to The Governor-General, Sir John Kerr - 15-11-1975

TO THE GOVERNOR-GENERAL, SIR JOHN KERR,

SOME NOTES EXTRACTED: PROM SOME 50 YEARS OF CONSTITUTIONAL RESEARCH BY

Arthur A. Chresby, Research Student in Constitutional Law.

1. "..... It is too late in the day to deny that the British peoples should accorded full rights of self-government. But those rights may be delayed or defeated if constituent power is exercised by Parliament without restriction. The recent case of Newfoundland seems to illustrate this point. Whatever political justification there was for the action taken, in fact the Legislature of Newfoundland surrendered powers which, according to ordinary notions of modern constitutional practice in political democracies, belong to the citizens of the State..." -Mr. Justice H.V. Evatt, "The King and His Dominion Governors (1936) " page 295.

2. "Political writers are in the habit of speaking of the Prime Minister and the Cabinet as the true Government of the Country, and of regarding the powers of the Crown as obsolete. This may be good politics, but it is not good law. ..." (Underlining added for emphasis) see page 318, 21st. Edition, "Stephens ' Commentaties" (1950).

3. "Dawson contends that the King 'has become an automaton with no public will of his own"; that the British Prime Minister's 'advice may not be refused,' and that 'In recent years practically all authorities agreed that the Governor-General's independent action had become a relic of history.' He adds that 'If responsible government is not a mockery, it must mean a genuine democratic rule based in large measure at least upon the English model.'(1) - (1) Dalhousie Review, Vol 6, No.3,page 333.-) On this reading of the conventions, the refusal was simply wrong. But the weight of authority, including Keith in most of his later works, is, as we have seen, heavily against Dawson's simple view. Todd, Dicey, Anson, Low, Lovell, Muir, Marriott, Jennings, Laski, Jenks and Evatt among academic authorities, and Wellington, Peel, Aberdeen, Russell, Derby, Disraeli, Gladstone, Salisbury, Courtney, Asquith, Mr. Lloyd George, and Lord Simon amongst statesmen, not to mention Queen Victoria, Edward Vll and George V , all unite in denying that the Monarch is a mere automaton and the Prime Minister's advice .. may not be refused; and no one has suggested that a Governor's discretion is less than the King's." - Professor Eugene A. Forsey, M.A.(Oxen) Ph.D., "The Royal Power of Dissolution" (Oxford Century Press, Toronto, (1943) pages 146-147.

4. "To make adjustments was also a normal task of parliament, and from one point of view parliament was well constituted to perform this function, for in parliament both king and subject were present to see that any proposed measure did no harm either the King's prerogatives or the subjects' rights. ...But now (contrary to the use of inferior Courts) the parties in Parliament (in those things that concerns the publique) meddle not as judges, but as Parties interested, with things that concerns every of their own

Rights, in which case it is neither Law nor Reason, that some of the Parties should determine of that that concerns all their mutual interests, invita altera parte, against the will of any one of the parties. But that all parties concurs or else their mutual interest to remain in the same condition it was before."(Dudley Digges, "A Review of the Observations upon some of His Majestees Late Answers and Expresses," Oxford, 1643. page 12.)

5. "...Look upon all Miscarriages and you may hunt them to the Cabinet;... King Charles the 1st. was the first that set up a Cabinet, but he was taken down for it; so was King James his son, and made a vagabond. All debates should be in Council..." Sir John Thompson, 26th January, 1694 (page 376, Vol X, Parliamentary Debates, 1689-94.).

6. The King has, firstly, the right of appeal from Parliament to the masters of Parliament, from his own advisors to the political sovereign before the expression of whose deliberate will the legal so sovereign must bow." Sir John Marriott, "Mechanism of Modern Government." Vol c., page 32.

7. "The resolution of such great conflicts is effected, and consistently with the mature of law can only be effected, by enquiring of each purported rule of law; by what authority does it speak? From what source is its legal character, its quality of being law, derived? ..."(T, R.E. Latham, page 522, Vol.l., "Problems of Nationality 19181936) From a Survey of British Commonwealth Affairs", by Prof. W.K. Hancock, Oxford University Press, 1937).

8. "...The puzzle is to see what is the force which habitually compels obedience to rules which have not behind them the coercive power of the Courts...." (page 436, Part 111, 8th. Edition, "Law of the Constitution", by Professor A.V. Dicey.)

9. "...It is obvious, therefore, that it is never safe to rely upon the application of mere *constitutional* usages, no matter how authoritive the documents by which they are evidenced...." Evatt, J. "King and His Dominion Governors", 1st. Edition, page 304.

10. "The essential characteristics distinguishing the two classes of constitutional rules is that rules of strict law are those rules recognised and applied by a court: non-legal rules are those rules which are not recognised and applied by the courts." Professor K.C. Wheare page 2, 3rd.Edition "The Statute of Westminster and Dominion Status." Law Book Com. 1947).

11. "The method or system of government in the United Kingdom and the self-governing Dominions may be described with sufficient accuracy as that of a political democracy under the Crown. This study is published because I am convinced that constant research into, and analysis of, all the present-day implications and tendencies of such method or system are essential; otherwise it may change, or be changed, without popular approval given full knowledge, into something very different....It is obvious that such analysis and criticism must be based upon postulates expressed or implied. Here there are two such postulates and two only; first, the permanence of the Crown, second, the doctrine (never openly denied) that the clearly expressed will of a majority of the citizens is

entitled to prevail throughout the particular constitutional unit to which they belong." Evatt J, (Author's Preface, ibid above.)

12. "... The danger of royal absolutism is past; but the danger of Cabinet absolutism, even of Prime Minister absolutism, is present and growing. Against that danger, the reserve power of the Crown, and especially the power to force or refuse dissolution, is in some instances the only safeguard. The Crown is more than a quaint survival, a social ornament, a Symbol, ‘an automaton, with no public will of its own'. It is an absolutely essential part of the Parliamentary system. In certain circumstances, the Crown alone can preserve the Constitution, or ensure that if it be changed it shall be only by the deliberate will of the people." - Professor Eugene A. Forsey page 259, ibid above.

13. "If given command over the parliamentary position, there is no saying to what lengths certain people may not be prepared to go in the exercise of legislative power..... some reserve authority may have to be exercised to prevent the abuse of legislative power, and to require great changes to be submitted for popular approval." Evatt J, pages 198-199 "King and His Dominion Governors."

14. "One of the distinctive features of the British constitution, as has often bean remarked, is the combination of the democratic principle that all political authority comes from the people, and hence that the will of the people must prevail, with the maintenance of a monarchy armed with legal powers to dismiss ministers from among the people's elected representatives, and even to dissolved the elected legislature itself. ..." Professor K.H. Bailey "Introduction to the King and His Dominion Governors" 1st. Edition, ibid above.

15. "The Crown has not power of doing wrong, but merely of preventing wrong being done." - Cicero.

16. "... He can neither make any alteration or change in the laws of the realm without the consent of the subject nor burden them against their wills with strange impositions, so that a people governed by such laws as are made by their own consent and approbation enjoy' their properties securely and without hazard of being deprived of them either by the King or any other. ... For he is appointed to protect his subjects in their lives, properties, and laws'; for the very end and purpose he has the delegation of power from the people and he has no just claim to any other power than this." Fortescue - "De Laudibus Legum Augliae."

17. "The prerogative of the king is the privilege of his subjects; that is, the king must exercise his prerogatives not for his own benefit but for the protection of his subjects...."- Professor G. Forrest, page 203, 8th. Edition "Ridge's Constitutional Laws of England".

18. "The King has a prerogative in all things that are not injuries to the subject; for in them all it must be remembered that the King's prerogative stretcheth not to the doing of any wrong." - Blackstone, quoting "Finch", page 494, Book 1V, 10th Edition "Stephen's Commentaries".

19. "Of the duties incumbent on the sovereign by the constitution the most important is to govern his people according to law..."Blackstone page 49, 9th, Edition "Commentaries on the Laws of England" (1885)

20. "... Such is the moral strength possessed by a legitimate and constitutional monarchy, that it trembles neither at the recitals of history nor at the criticisms of reason. It is based upon truth, and truth is consequently neither hostile nor dangerous to it. Wherever all the wants of society are recognised, and all its rights give each other mutual sanction and support, facts present only lessons of utility, and no longer hint at unwelcome allusions. ..."page 21 "History of the origin of Representative Government in Europe ." by M. Guizot, 1852 (translated by Andrew R. Scoble)

Extra commentary by Arthur Chresby; And as Professor Eugene A. Forsey (ibid) so rightly said; ".,. and no one has suggested that a Governor's discretion is less than the King's."
The whole claim of Party Cabinet Government, and Party mandate, and party responsible government system, and political party "government" is a complete lie; is the very antithesis of a Constitutional Monarchy both in legal law and operation. If is parasitic and must be destroyed before it strangles and destroys the Constitutional Monarchial system written into our Commonwealth Constitution. There can be no legal room for a "Governor--General Government" being subservient to Ministers of the Crown, dominated and controlled by a political party system. Ever since 1941 I have been warning of the dire problems that must and will continue to arise whilst the party system controls the Parliamentary mechanism.

Crow's Nest, Queensland, 15th. November 1975."

Some Notes Extracted Prom Some 50 Years of Constitutional Research

TO THE GOVERNOR-GENERAL, SIR JOHN KERR,

SOME NOTES EXTRACTED PROM SOME 50 YEARS OF CONSTITUTIONAL RESEARCH BY

Arthur A. Chresby, Research Student in Constitutional Law.

1. "..... It is too late in the day to deny that the British peoples should accorded full rights of self-government. But those rights may be delayed or defeated if constituent power is exercised by Parliament without restriction. The recent case of Newfoundland seems to illustrate this point. Whatever political justification there was for the action taken, in fact the Legislature of Newfoundland surrendered powers which, according to ordinary notions of modern constitutional practice in political democracies, belong to the citizens of the State..." -Mr. Justice H.V. Evatt, "The King and His Dominion Governors (1936) " page 295.

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not as judges, but as Parties interested, with things that concerns every of their own Rights, in which case it is neither Law nor Reason, that some of the Parties should determine of that that concerns all their mutual interests, invita altera parte, against the will of any one of the parties. But that all parties concurs or else their mutual interest to remain in the same condition it was before."(Dudley Digges, "A Review of the Observations upon some of His Majestees Late Answers and Expresses," Oxford, 1643. page 12.)

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9. "...It is obvious, therefore, that it is never safe to rely upon the application of mere *constitutional* usages, no matter how authoritive the documents by which they are evidenced...." Evatt, J. "King and His Dominion Governors", 1st. Edition, page 304.

10. "The essential characteristics distinguishing the two classes of constitutional rules is that rules of strict law are those rules recognised and applied by a court: non-legal rules are those rules which are not recognised and applied by the courts." Professor K.C. Wheare page 2, 3rd.Edition "The Statute of Westminster and Dominion Status." Law Book Com. 1947).

11. "The method or system of government in the United Kingdom and the self-governing Dominions may be described with sufficient accuracy as that of a political democracy under the Crown. This study is published because I am convinced that constant research into, and analysis of, all the present-day implications and tendencies of such method or system are essential; otherwise it may change, or be changed, without popular approval given full knowledge, into something very different....It is obvious that such analysis and criticism must be based upon postulates expressed or implied. Here there are two such postulates and two only; first, the permanence of the Crown, second, the doctrine (never openly denied) that the clearly expressed will of a majority of the citizens is

entitled to prevail throughout the particular constitutional unit to which they belong." Evatt J, (Author's Preface, ibid above.)

12. "... The danger of royal absolutism is past; but the danger of Cabinet absolutism, even of Prime Minister absolutism, is present and growing. Against that danger, the reserve power of the Crown, and especially the power to force or refuse dissolution, is in some instances the only safeguard. The Crown is more than a quaint survival, a social ornament, a Symbol, ‘an automaton, with no public will of its own'. It is an absolutely essential part of the Parliamentary system. In certain circumstances, the Crown alone can preserve the Constitution, or ensure that if it be changed it shall be only by the deliberate will of the people." - Professor Eugene A. Forsey page 259, ibid above.

13. "If given command over the parliamentary position, there is no saying to what lengths certain people may not be prepared to go in the exercise of legislative power..... some reserve authority may have to be exercised to prevent the abuse of legislative power, and to require great changes to be submitted for popular approval." Evatt J, pages 198-199 "King and His Dominion Governors."

14. "One of the distinctive features of the British constitution, as has often bean remarked, is the combination of the democratic principle that all political authority comes from the people, and hence that the will of the people must prevail, with the maintenance of a monarchy armed with legal powers to dismiss ministers from among the people's elected representatives, and even to dissolved the elected legislature itself. ..." Professor K.H. Bailey "Introduction to the King and His Dominion Governors" 1st. Edition, ibid above.

15. "The Crown has not power of doing wrong, but merely of preventing wrong being done." - Cicero.

16. "... He can neither make any alteration or change in the laws of the realm without the consent of the subject nor burden them against their wills with strange impositions, so that a people governed by such laws as are made by their own consent and approbation enjoy' their properties securely and without hazard of being deprived of them either by the King or any other. ... For he is appointed to protect his subjects in their lives, properties, and laws'; for the very end and purpose he has the delegation of power from the people and he has no just claim to any other power than this." Fortescue - "De Laudibus Legum Augliae."

17. "The prerogative of the king is the privilege of his subjects; that is, the king must exercise his prerogatives not for his own benefit but for the protection of his subjects...."- Professor G. Forrest, page 203, 8th. Edition "Ridge's Constitutional Laws of England".

18. "The King has a prerogative in all things that are not injuries to the subject; for in them all it must be remembered that the King's prerogative stretcheth not to the doing of any wrong." - Blackstone, quoting "Finch", page 494, Book 1V, 10th Edition "Stephen's Commentaries".

19. "Of the duties incumbent on the sovereign by the constitution the most important is to govern his people according to law..."Blackstone page 49, 9th, Edition "Commentaries on the Laws of England" (1885)

20. "... Such is the moral strength possessed by a legitimate and constitutional monarchy, that it trembles neither at the recitals of history nor at the criticisms of reason. It is based upon truth, and truth is consequently neither hostile nor dangerous to it. Wherever all the wants of society are recognised, and all its rights give each other mutual sanction and support, facts present only lessons of utility, and no longer hint at unwelcome allusions. ..."page 21 "History of the origin of Representative Government in Europe ." by M. Guizot, 1852 (translated by Andrew R. Scoble)

Extra commentary by Arthur Chresby; And as Professor Eugene A. Forsey (ibid) so rightly said; ".,. and no one has suggested that a Governor's discretion is less than the King's."
The whole claim of Party Cabinet Government, and Party mandate, and party responsible government system, and political party "government" is a complete lie; is the very antithesis of a Constitutional Monarchy both in legal law and operation. If is parasitic and must be destroyed before it strangles and destroys the Constitutional Monarchial system written into our Commonwealth Constitution. There can be no legal room for a "Governor--General Government" being subservient to Ministers of the Crown, dominated and controlled by a political party system. Ever since 1941 I have been warning of the dire problems that must and will continue to arise whilst the party system controls the Parliamentary mechanism.

Crow's Nest, Queensland, 15th. November 1975."

Letter to Air Marshall Sir Colin Hannah, K.C.M.G., K.B.E., C.B - 3rd March 1976

3rd March 1976

His Excellency,
Air Marshall Sir Colin Hannah, K.C.M.G., K.B.E., C.B.,
Her Majesty's Governor In and Over
The Sovereign State of Queensland,
Government House,
BRISBANE, QUEENSLAND 4000.

Your Excellency,

On page Nine, of its Edition of Friday, 27 February, 1976, "The Toowoomba Chronicle" reported an Address, given to the Liberal Party in Toowoomba, by the State Treasurer of Queensland. Inter alia, the following three (3) statements are attributed to him:

a) "That's why I've pressed for--and will continue to press for sufficient money from Canberra to get on with the job of development in Queensland."

b) "If Governments spend more money on services they provide, the money can only come from the taxpayer's pocket."

c) "Let me emphasise this--there's nowhere more money can come from, except from the pockets of the people of Australia."

Sir, by all known Statutes, Royal Proclamations and Letter's Patent, the Governor of the State of Queensland is the only legal government, and no one else. On this point I invite Full Supreme Court rebuttal, if such thing is ever possible. The Ministers of the Crown, as Your Excellency has been previously informed, are: - (a) merely paid Administrators-of State Departments, legally entirely and wholly responsible to the Governor, and no one else, political practices non obstante; and (b) are honorary Members of the State Executive Council whose advice the Governor cannot legally be compelled to accept, unless with respect to a definite and specific subject a specified Act requires him to act in Council.

Again, Sir, I cordially invite Full Supreme Court rebuttal for I sense that the Queensland People are becoming a little tired of the party-political theorists and text book writers, who do not attempt to check the legal basis of the "conventions and assumptions" they feed to the People. In passing, you will recall the letter written me by the then Queensland Minister for Justice and State Attorney-General the late Sir, then the Honourable Dr. Peter Delemothe; a letter prepared for him by the then Solicitor-General under date of 5th. September, 1968, wherein, inter alia, he stated:-

"Like you , we doubt the accuracy of such statements as "The Governor must accept the advice of his Ministers, irrespective of any personal doubts he may have", and are by no means in agreement that Her Majesty's representatives, whether in the State or the Commonwealth, are merely "rubber stamps."'

It is to Your Excellency, as the only legal Government, that I present the following submissions and, in the legal and moral Right of the Queensland People to be told, and to know, the legal truth of the subject matter herein, I do most humbly and respectfully beseech you, Sir, to call your full Executive Council together and inform them of the very grave disservice they do Her Majesty, Your Excellency, the People of Queensland, and the Members of the Legislative Assembly in making legally untenable public statements, such as quoted above from the "Toowoomba Chronicle". Indeed, Sir, in their own interests, Executive Councilors should be warned that the continued publication of such statements will earn them the public ignominy of being political ignoramus's to the Queensland People's financial distress.

With humble respect, Sir, I say again that such statements as (a), (b) and (c), as appeared in the "Toowoomba Chronicle", under discussion, are just simply not legally true as the following legal evidence will reveal:

1. Section 51, Placita (xiii) of the Commonwealth Constitution grants the States the legal-Constitutional right to establish and operate their own State Trading Banks, without Commonwealth interference in Intra-State operations.

2. The High Court of Australia, Bank Nationalisation Case, legally defined the financial raising powers of the six States: “It is open to the States, at all events in contemplation of law, under the exception of State Banking, to provide for their own needs." (76 C.L.R., pp. 337--338(1948)

3. The Judicial Committee of the Privy Council, in the same Case, clearly defined how a bank can finance things: "The business of banking, consisting in the creation and transfer of credit..."(1949) 79C.L.R.497(P.C.) pp. 632-633.

Please note, Sir, that I have added the underlining to stress the "credit creation and destruction power" of any Trading Bank, be it Private, State, Commonwealth Development Bank or Federal Reserve Bank of Australia and I will advance further authorative evidence in this submission. 4, "....it may be necessary for us, for our own protection, to exercise the right we have under the Constitution to establish our own State Bank....."

Underlining has, again, been added by me to emphasise that there is no legal-constitutional bar, only a political decision by Executive Council and the State Parliament, to Queensland setting up and operating its own State Trading Bank to fund all legitimate State and Local Government needs, by its "credit creation power", without begging a cent from the Commonwealth, and without the existing brutal financial imposts upon the Queensland People. The quotation, above, is from a photostat copy, which I possess, of a letter on State Parliamentary letterhead written by the then Leader of the Opposition under date of 15th. September, 1948.

It has been suggested to me that the Queensland Statute No. 3 of 1966, entitled "The Commonwealth Savings Bank of Australia Agreement Act of 1966`, granted Royal Assent on 27th.September,1966, is the sole reason for absolute Executive Council silence on Parliament's legal-Constitutional powers, as aforesaid, i.e., for Intra-State Government and Local Government funding. If this be the reason, other than the simple ignorance of these matters, as suggested above, it would never stand either Full Supreme Court or High Court Testing.

Section 10(a) and (b) of the above Act does, of course, contain some elements of prohibition against the establishment of a Queensland State Government Savings Bank, during the 25 year currency of that Agreement from 1st day of July , 1965, as provided in Section 11, whilst Section 12 could be held to be an escape Clause by the State. However, since none of the provisions against repeal at any time by the State are incorporated in the Agreement the power of the State to quash is undoubted. For the requisite binding provisions, against, repeal by the State, see the "Trethowan Case,"44 C.L.R.394(1930-1931): Since these provisions are non-existent in the Agreement the old rule that a Parliament cannot bind its successor obviously apply.

Irrespective of pro's and con the said Agreement has no legal relationship with the State's power to establish a "State Trading Bank" to fund it Intra-State Governmental and Local Government requirements. The Agreement prohibition is expressly with respect to the setting up of a "State Government Savings Bank" only. It would not be within the Statutory competence of the Commonwealth Parliament, Federal Treasury, Federal Reserve Bank of Australia, the Commonwealth Development Bank nor the Commonwealth Savings Bank of Australia to legitimately intervene against the operation of a State Government Trading Bank for the purposes of funding as I have mentioned aforesaid. for Section 51 (xiii) of the Commonwealth Constitution and the High Court ruling in the Bank Nationalisation Case, ibid, are the prohibiting factors against such interference.

Respectfully, Sir, would I stress that it would be only with respect to that part, and that part alone, of its Inter-State, as against Intra-State, operations would a State Trading Bank come within Commonwealth Constitutional jurisdiction, the same as other Trading Banks.

It is possible that the State Executive Council, as well as others, may try to counter all the aforementioned points of these Submissions with purely political and economic assertions that it was not financially, economically nor politically feasible for the State to set up its own Trading Bank, as afore stated, even though it was legally possible to do so. Such counter arguments would be good political diversionary tactics, but they would certainly not be good law, nor good legal facts.

The simple legal fact is, of course, that a State Trading Bank would adopt, adapt and follow the normal credit advancement technique, developed over the last two centuries of world-wide banking practices and followed by the Federal Reserve Bank of Australia and Private Trading Banks in Australia, i.e., "Credit Creation", or advancement of credit, in Ratio to the amount of actual L.G.S.(or Liquid and government convertible securities held and purchased) by the banks concerned. The one single difference between the State Trading Bank and a Private Trading Bank being that the State Trading Bank would not require interest on, and redemption of, the credit advanced to the State for State and Local Government purposes. Despite the obvious protests of ivory-towered economists, and others , the non-repayment of interest or of principal would not and could not adversely affect the Queensland economy. The reverse would be the truth; the economy would benefit, and so would the buying power of each legal dollar possessed by every Queenslander.

Cancellation, by a State Trading Bank non-repayable credit advancements to State and Local Government for essential financial Intra-State needs, at the end of each financial year, for instance, would not, and could not, affect legally any person or persons for as was stated by Dr.

H.C. "Nuggett" Coombs, formerly Governor of the Commonwealth Bank and of the Federal Reserve Bank, in his ''E.S.& A. Bank Limited Research" Lecture at the Queensland University on 15th. September, 1954 (and printed by the University of Queensland Press on 20th. June, 1955), page 4:

"The last source differs from the first three because when money is lent by a Bank it passes into the hands of the person who borrows it without anybody having less. Whenever a bank lends money there is, therefore, an increase in the total amount of money available."

Will Your Excellency kindly note that I have, again, added the underlining for the purpose of emphasising the "credit creation" definition of the Privy Council in the Bank Nationalisation Case, as aforementioned. And to be absolutely certain, Sir, that there can be no legal doubt whatever as to the "creation of credit" and its major use as a "substitute" for legal money, i.e. the Queen's money as established by law, and which we ordinarily know of and call money, I would submit the authorative statement of the late Marriner Eccels who, as the then Chairman of the world's most powerful International Bank, i.e. the Federal Reserve Board of the United States of America , inter alia, stated:-

"The banks can create and destroy money; bank money is the money we do most of our business with, not with that currency which we usually think of as money."
(See United States--Senate Document No. 23, 76 Session, June 8, 1935, page 102.)

Again, Sir, I have underlined to emphasise the "credit creation and cancellation" power that can be legally exercised by a Government State Trading Bank to fund all the Intra-State needs of both State and Local Government, without one cent of begging from the Commonwealth, and without imposing any form of State Taxation, however disguised, upon Queenslanders.

To the above statements of Dr. Coombs and the late Marriner Eccels I take leave to add further proof of my submissions:-

(a) "It is not unnatural to think of the deposits of a bank as being created by the public, through the deposit of cash representing either savings or amounts which are not for the time being required for expenditure. But the bulk of deposits arise out of the action of the banks themselves, for by granting loans, allowing money to be drawn on an overdraft or purchasing securities a bank creates a credit in its books, which is the equivalent of a deposit..." (See Chapter 4, page 34, "Macmillan Commission of Enquiry into Finance and Industry." 1930. Chairman the Rt. Hon. the Lord Macmillan.)

(b) "I am afraid that the ordinary citizen will not like to be told that the banks can, and do, create and destroy money. The amount of money in existence varies only with the action of the banks in increasing or decreasing deposits. ....Every loan, overdraft or bank purchase creates a deposit, and every payment or bank sales destroys a deposit. ....."

(Extracted from an Annual Address, to the Shareholders of the Midland Bank-- one of the U.K.'s "Big Five"-- on the 25th. January 1924. Address given by the then Chairman the Rt. Hon. Reginald McKenna, formerly Chancellor of the British Exchequer, 1915-1916.)

(c) This quotation was extracted by me from a Report of a Canadian Parliamentary Committee on Banking and Commerce. Unfortunately my pencil notes of the extraction do

not show the year, etc., but a formal request to the Canadian Authorities can easily check the statements for authenticity.

The then Governor of the Bank of Canada, Mr. Graham Towers, was under cross-examination: Question -...you virtually allow the banks the right to issue an effective substitute for money, do you not?

Mr. Towers- The Bank deposits are actually money in that sense.

Question- As a matter of fact, they are not actual money, but credit, book-keeping accounts which are used as a substitute for money?

Mr. Towers- Yes.

Question- Then we authorise the banks to issue a substitute for money?

Mr. Towers- Yes, I think that is a fair statement of banking. "

The point of the Canadian quotation, Your Excellency, is that there is no legal or practical necessity whatever for the Queensland Parliament and the Executive Council or Local Governments to borrow money from any Bank or Government, other than from its own State Trading Bank, and then only in the form of non-interest bearing and non-repayable Credit Advancements for Intra-State purposes, thus eliminating that ever increasing crushing burden of Interest payments and the side effects of those payments, interest burdens needlessly incurred by Government and Local Government and which the People of Queensland are, of a consequence, unlawfully being called upon to bear because the Executive Councilors, in abysmal ignorance, have failed to advise Your Excellency, and the Legislative Assembly in the matters.

Your Excellency, foolish indeed would be the Executive Council in attempting to deny the main basis of the above submissions, for it is beyond all possible legal argument, and legal evidence, that the Reserve Bank of Australia, the Commonwealth Development Bank and all Australian Private Trading Banks can and do "create credit" which is advanced, and used, as a substitute form of money over and above the legal tender of the Nation, as by law established; that they lend this substitute money to Federal and State Governments, and Local Government Authorities, and Treasuries tax the People in a multitude of ways, overtly and covertly, to pay redemption and Interest; that so far as the Federal Reserve Bank of Australia is concerned no legal financial necessity exists for the Federal Treasurer to refund any such substitute money; that, which the exception of the right of the Reserve Bank to print legal dollar notes, a State Trading Bank would occupy precisely the same relationship with and to a State Treasury and State Parliament; that for Intra-State and Local Government purposes there is, therefore, not one legal bit of evidence that the State Parliament and Executive Council must go to the Commonwealth for financial crumbs from the Treasury table, nor is there any legal evidence to support the political assertions that:(b) "If Governments spend more money on Service they provide, the money can only come from the taxpayer's pocket ."

(c) "let me emphasise this--there's nowhere more money can come from, except from the pockets of the people of Australia."

Sir, in these submissions sufficient legal evidence is formerly made available to the Executive Council and the Legislative Assembly, through the Governor as the only legal Government in the State, to counter such wild and untenable political statements in (b) and (c) above and to ensure that there can be no valid legal reason why prompt steps should not now be taken to establish a State Trading Bank, as aforesaid, to eliminate the crushing burden of State and Local Government debt, now existing, from the People of Queensland. The People will want more than excuses; they will want sound legal evidence as to why such a Bank cannot be established now and put into operation.

Your Excellency will, of course, know that it was my privilege to be the then Liberal (Qld) Member of the Federal Government Members "Taxation and Finance Committee", when I was an M.H.R. As a member of that Committee I had the privilege of many private and personal conversations and discussions with both State and Commonwealth Treasury Officials throughout Australia, as well as with Private Bankers. It is from this experience, the knowledge I gained, and the notes that I took, and the research I personally carried out, that I have made this submission to you.

I have the honour to be Your Excellency's dutiful servant.

GOD SAVE THE QUEEN!

(Arthur A. Chresby.)

"Rose Villa", Sharp Street,

CROW'S NEST. Q. 4355.

Letter to Sir Zelman Cowan, A.K., G.C.M.G., K. St. J., Q.C. - 21 August 1979

Telephone (076) 98 1217

Arthur A. Chresby
Research Analyst Constitutional Law
'Rose Villa' ,
Sharp Street,
Crow's Nest, Q 4355

21 August, 1979.

To His Excellency,
Sir Zelman Cowan, A.K., G.C.M.G., K.St.J., Q.C.,
Her Majesty's Governor-General in and Over The Commonwealth of Australia, and
Commander-in-Chief of Her Majesty's Australian Defence Forces,
Government House,
CANBERRA. A.C.T. 2600.

Your Excellency,

Enclosed for Your Excellency's information and possible action, is a copy of a little work, just published, "YOUR WILL BE DONE".

One of the aims of the book, apart from presenting the legal truth, has been to reduce to simple easy reading, with appropriate legal correction of material, the highly complex technical language of most constitutional and political science text-books, theses and other relevant documents.

The book consists of an Introduction and eight chapters, encompassing within its thirty-three pages of reading matter a compression of some fifty years of personal, unhurried meticulous research and analysis of both Australian and overseas constitutional and political science works, Court and Privy Council documentations far too numerous to be appended in a bibliography.

Within its brief pages will be found, for the first time in Australia, a clear, concise and simple description of the true legal role, f-unction and powers of the Monarchy, the Governor-General, State Governors, Ministers of the Crown and members of the House of all Parliaments throughout this Nation.

Included in the vital information, made available to the reader, for the first time in the majority of cases, IS THAT A GOVERNOR-GENERAL AND EACH STATE GOVERNOR IS THE LEGAL PROTECTOR OF THE CONSTITUTIONAL POWERS AND AUTHORITIES OF THE PEOPLE. That, by those Constitutions a Governor-General and State Governors must stand rigidly against any overt or covert usurpation of those powers and authorities by any or all salaried Ministers of the Crown, or by any Members of the Houses of the various Parliaments, a fact, of course, which no Governor-General or State Governor would dispute, despite the false so-called 'constitutional' conventions.

Sir, leave is taken to respectfully, but most emphatically, stress that one of the most appalling disservices and injustices done the Australian people is that so many otherwise outstanding constitutional and political science authorities, text-book writers and party politicians persistently support the unpardonable error of confusing the 'legal government' of the Commonwealth and States with the absolutely untenable and completely false 'convention' that a political party in control of the Houses of a Parliament IS THE GOVERNMENT.

As is shown in "YOUR WILL BE DONE", the Government is NON-ELECTIVE, residing permanently in the Institution of the Monarch and in the absence of Her Majesty, is exercised on Her behalf by the Governor-General and State Governors.

It is consistently, and falsely, propagated that the dismissal of the Ministers of the Crown is the legal dismissal of the 'Government'. The incontrovertible legal truth is that a dismissal of a set of Ministers means precisely just that; a dismissal of a set of Ministers of the Crown AND NOTHING ELSE WHATEVER. It is only the protagonists of the party system that perpetrate this legal falsehood.

Sir, there is neither legal nor strict Constitutional reason or authority for the past and present assumptions and practices that a dissolution of a House or both Houses of a Parliament must legally and automatically follow a dismissal of a set of salaried Ministers of the Crown. None whatever. The sooner Australian people are properly educated in this matter, the sooner will the people be able to exercise proper control over their Houses of Parliament and, of a consequence, of the incumbents therein, both elected and nonelected.

As Your Excellency is well aware, the High Court has held that Clause Five of the "Commonwealth of Australia Constitution Act" (an Act of only 9 clauses) legally binds the Governor-General, and everyone else within its constitutional jurisdiction. Thus the High Court could not uphold that a political party was the 'legal Government'. Chapters Two, Three, Four, Five and Six of "YOUR WILL BE DONE" quite clearly points to, and disentangles, this confusion; a confusion that has led to a very serious, and ever-increasing, deterioration in the practical application and operation of the Commonwealth and State Constitutions in the respective Houses of Parliament. The Australian people have been, by the practices of the party system, completely denied their moral and legal right to know and understand the true legal position.

Your Excellency will readily recall the famous thesis of the late Dr. H.V. Evatt, then a Justice on the High Court Bench, which was published in 1936 under the title of "The King and His Dominion Governors". Indeed, many years later, Sir, you wrote the Introduction to the Second Edition without altering the text of the work. the following passages, not out of context, are extracted from that first Edition:

Page 198 : -

"Yet situations may arise in which the exercise of reserve power will be the only possible method of giving to the electorate an opportunity of preventing some permanent and far-reaching constitutional change. ....If given command over the parliamentary position, there is no saying to what lengths certain persons may not be prepared to go in the exercise of legislative power...."

Page 199 : -

"It is sufficient to make the point that, in the interests of the people, and because of the absence of controlling constitutional provisions requiring great changes to be endorsed by vote at a referendum, some reserve authority may have to be exercised to prevent the abuse of legislative power, and to require great changes to be submitted for popular approval. ...."

Page 275 : -

"....It is one of the paradoxes of the constitutional position evidenced by the Statute of Westminster that, without the slightest reference of the issue to the people of the Dominion, the status of any Dominion may be formally surrendered by

its Parliament (for the time being) requesting the necessary constitutional legislation from the Parliament of the United Kingdom. That this is not a mere hypothesis is shown by the diminution of constitutional status accepted by the Parliament of Newfoundland without any express consultation of the people of the Dominion."

Page 295 - 296:

"7. The question whether, and to what extent, Parliament should have constituent power is directly related to the legal question whether it should be regarded as capable of binding its successors. It is too late in the day to deny that the British peoples should be accorded full rights of self-government. But those rights may be delayed or defeated if constituent power is exercised by Parliament without restriction. The recent case of Newfoundland seems to illustrate this point. Whatever political justification there was for the action taken, in fact the Legislature of Newfoundland surrendered powers which, according to ordinary notions of modern constitutional practice in political democracies, belonged to the citizens of that State. This illustrates again the special, and perhaps dangerous, feature of the Statute of Westminster which I refer to elsewhere. In the main the Statute of Westminster commits powers to 'the parliament of a Dominion'. It thus identifies the Dominions with their Parliaments for the time being, so that the destinies of the peoples of the Dominions, being committed to, may also be prejudiced by, a Legislative which, in relation to some great question, has no mandate and knows that it cannot obtain one."

Your Excellency, how truly wise were the British and Australian parliamentarians of the day who forecast, with uncanny accuracy that the Statute of Westminster would bring about the complete dissolution of the British Empire. Reflect, if you will Sir, on the indisputable fact of how many 'governments' (?) used that Statute to break away from the Constitutional jurisdiction of the Constitutional Monarchy?

As practical experience has demonstrated, the majority of those break-always became absolute dictatorship republics. However, for purely party-political strategic reasons they chose to acknowledge the Monarchy merely as a symbolic Head, to use the words of the then Mr. Percy Spender, of the 'Commonwealth of Nations'. WHY? Because they could use their superiority of numbers at such Conferences of the Commonwealth of Nations so as to force the genuine democracies, within that alleged Commonwealth, to carry out the majority policies, whatever they were.

May Your Excellency also be pleased to reflect upon the legally unchallengeable fact that the Statute of Westminster was not the outcome of the considered voice and vote of the people then functioning under the jurisdiction of the Constitutional Monarchy. It was a decision of a group of party political leaders, meeting under the title of the "1926 Imperial Conference" who, applying the non-legal practices of the party system, forced the British Parliament, without prior consultation of all the peoples of the countries concerns to enact legislation called the Statute of Westminster, a most infamous piece of destructive legislation if ever there was one.

Page 298: -

..... But, even in such cases, the Parliament is the Parliament for the time being only, and it does not reflect the will of the electorate for all purposes and at all times. It will therefore have to be considered by the Dominion peoples whether special safeguards are not required to prevent a complacent Parliament from surrendering constitutional powers by the method permitted by sec. 4 of the Statute of Westminster and without the specific consent or authority of the Dominion people concerned. By way of illustration it will be remembered that the Newfoundland Act, 1933 (24-25 Geo.V.c.2), took away from the people of Newfoundland important rights of self-government, at the request, not of the electors, but of the Parliament for the time being."

In 1942, Your Excellency, the political party in control forced the Houses of the Commonwealth Parliament to ratify and apply the Statute of Westminster to the Commonwealth of Australia (it does not apply to the States) and, by the practices of the Party system, persuaded the then Governor-General to give the Royal Assent without the specific consent or authority of the Australian people.

Since that date how many political parties, in control of the Houses of the Commonwealth Parliament, have sought the consent and authority of the Australian people in the making and ratifying of overseas treaties, conventions and agreements; treaties, conventions and agreements having far more dangerous effects upon the economic, political and financial lives of the Australian peoples than the Queen's Ministers would care to completely reveal?

In every single case of making and ratifying, it is beyond all possible legal argument that every controlling party acted as, and claimed that it was, 'the government'.

Page 304: -

DIFFICULTY NOT AVOIDED BY MINISTERS' CONTROL OVER GOVERNOR-GENERAL

> "It is obvious, therefore, that it is never safe to rely upon the application of mere constitutional usages, no matter how authoritative the documents by which they are evidenced. ....the difficulty raised by the reference to the 'Conventions' is much greater because it is impossible to say what the 'conventions' are and where they may be found.

Sir, it is again completely beyond all legal challenge that the practice of a political party taking control of the machinery of a Parliament, and manipulating the Members of that Parliament, as well as the Governor-General and State Governors and the people, and claiming

to be the 'government', has nothing whatever to do with the Legal Constitutions of the Commonwealth and States. It is purely one of the 'conventions' to which Mr. Justice Evatt so clearly refers.

Page 305: -

> ..Surely it is wrong to assume that the Governor-General for the time being will always be a mere tool in the hands of the dominant Party. ...."

Your Excellency, surely the above statement of Mr. Justice Evatt points to the extremely urgent necessity for a Governor-General and State Governors, to give more than just serious study to the grave warning given by the late Mr. Justice Sir Owen Dixon in his inaugural address as Chief Justice of Australia, to wit:

> "....There is no other safe guide to judicial decisions in great conflicts than a strict and complete legalism. ...."
> (85 C.L.R. xiii-xiv)

(Sir Owen Dixon's above statement was included in some advice, under date of 27 June, 1974, which was tendered by me to your Predecessor, Sir John Kerr. Inter alia the advice presented also included the following:-

> " ... an evaluation of the pattern of events that will occur in the political/constitutional field clearly indicates that no previous Governor-General, in peace time, will ever have experienced the burdens that are to be your lot. Forgive me for suggesting that, when these burdens come your way, the conventions and usages will become your constitutional quagmire should you choose that path. Respectfully it is submitted that the correct and safe road is that which was stressed by the late Sir Owen Dixon, on his appointment as Chief Justice:-) (Sir Owen Dixon's quotation then followed) "

Sir, the above passages from Mr. Justice Evatt's' thesis, ibid, together with those on page 25 of "YOUR WILL BE DONE" (relating to overseas treaties, conventions and agreements) are drawn to Your Excellency's special attention because of the events at the Lusaka Conference just finished.

In studying the relevant passages from both above mentioned books a Governor-General cannot ignore the legal fact that commitments over Rhodesia have been made without the prior specific consent and authority of the Australian people, despite the fact that various Gallup polls showed that the people were by no means in agreement over what was being; forced upon Rhodesia by outsiders. Your salaried Ministers showed the most indecent haste in recognising governments not elected by their own people and in refusing to visit Rhodesia themselves.

The public statements and commitments over Rhodesia, long before and at Lusaka, were not made by a legal Government of Australia, with the full weight of the Australian people behind it. It was made by two salaried Ministers, on purely party political lines.

Messrs. Fraser and Peacock, as salaried Ministers, and not as the Legal Government, have consistently claimed that Australia was bound by the decisions of the United Nations. It is beyond all legal argument that the majority of the Membership of the U.N. is comprised of outright self-proclaimed dictatorships, with no pretense of free elections, as the Australian people understand elections. Salaried Crown Ministers commit the worst possible constitutional perjury in making claims that Australia, a free and open democracy, is obligated to the dictates of such international dictatorships under the guise of the Atlantic and U.N. Charters, when the Australian people had no say, whatsoever, in the consideration and adoption of those charters.

As the Australian, political party, Delegation to the Bretton Woods Conference, July 1944, so startingly admitted (see Appendix C, Employment Policy, p. 11 of original Printed Documents, printed and released in Australia by the Authority of the Commonwealth Government Printer):-

"IF INTERNATIONAL AGREEMENTS ARE NOT TO INTERFERE WITH THE SOVEREIGNTY OF NATIONS, NO AGREEMENTS WHATEVER ARE POSSIBLE."
(Words have been placed in Capitals by me to stress their significance)

If Your Excellency, in accordance with your Constitutional powers, authorities, and obligations to the Australian people, were to invite the Senators and Federal Members to individually, and confidentially write you as to where they stood over the above mentioned factors the results would leave Your Excellency in no doubts that, safe from the disciplines of their respective parties, most Members would tell you privately that they are not in favour of these things.

Your Excellency would also be acting in accordance with your Constitutional powers and authorities if, before signing, ratifying or giving Royal Assent to the aforesaid Rhodesian commitments, or giving Royal Assent to any other form of overseas treaties, conventions or agreements, you first took steps to ascertain what was the will of Her Majesty's Australian people on the subject matter involved. Indeed, in the face of the dire warning of the late Mr. Justice Evatt, ibid, it becomes the binding Constitutional duty of a Governor-General to do so, irrespective of the advice of salaried Ministers to the contrary.

Sir, if you would care to do so, it is most respectfully suggested that you arrange for trusted persons to make a quiet survey of the people in Cities, Towns and countryside with respect to the office of Governor-General, and, indeed, State Governors. It would be found that, due to party political propaganda, well supported by the elements of the sensational media, most people through sheer lack of the correct knowledge, and understanding, of the legal truth believe that the said Offices are a useless appendage; that Governors-General and State Governors merely serve as rubber stamps for, and 'mere tools' in the hands of, the political party in control of the Houses of the Parliament.

As aforesaid, the Constitutions of both the Commonwealth and the State, bind the Vice Regal Representatives of Her Majesty to PROTECT the people from the actions of complacent Houses of Parliament, and party dominated Parliamentarians, allowing the constitutional powers and authorities of the people to be usurped by salaried Ministers falsely claiming to be the 'legal government' with the right to determine the lives of those living and those not yet born.

As one of the doyens of the legal profession, Your Excellency would readily recall the following pertinent passage from a decision of the High Court in the famous "Engineer's Case" (see 1920, 28 C.L.R. 129):-

> "It is therefore, in the circumstances, the manifest duty of this Court to turn its earnest attention to the provisions of the Constitution itself. That instrument is the political compact of the whole of the people of Australia, enacted into binding law by the Imperial Parliament, and it is the chief and special duty of this Court faithfully

to expound and give effect to it according to its own terms, finding the intention from the words of the compact, and upholding it throughout precisely as framed . ...,"

Neither a Governor-General nor a State Governor, nor any member of the legal profession can deny that, if the Australian people are legally bound by their Commonwealth and State Constitutions, and the Laws correctly enacted under those Constitutions, then no Governor-General, State Governor, salaried Minister of the Crown or Parliamentarian may transgress those laws. The practices of the party system in the control, and operation, of the Parliamentary system are a legal transgression of those Constitutions.

ALL THE ABOVE FACTS ARE COMPLETELY BEYOND ANY TRUE LEGAL DISPUTE.

"YOUR WILL BE DONE" seeks to present the real truth to the people and, acting as a lighthouse, to show them how to bring the machinery of Parliament under their control as to the results they want their Parliamentarians to legislatively produce. It also seeks to guide the Australian people through the darkness of party political viciousness which, daily, is causing more and more of Her Majesty's Australian people to lose faith in, and respect for, their Constitutions and parliamentary institutions.

Your Excellency, "YOUR WILL BE DONE" clearly shows that:
“Whatever it is physically possible to do, and the people want, the Queen has the legal power to see that they get it, no matter how politicians may protest.
The sole and only legal limit to the power and authority of the Queen IS THE UNKNOWABLE EXTENT OF WHAT HER PEOPLE, AT ANY TIME OF THEIR CHOOSING, MAY DIRECTLY REQUEST OF HER."

Is it, therefore, legally open to a Governor-General or State Governor (as Mr. Justice Evatt queried on p. 305 of his said book) to act wholly in accordance with the usages, practices and 'conventions' of the party system, in the face of the overwhelming evidence of what is the true and only legal role, functions, powers and authorities of their office? Is it, therefore, legally open to a Governor-General or State Governor to decline to exercise every lawful constitutional power and authority to see that the legal truth about the Institution of the Monarchy and their own Vice Regal Office, as shown on pages 13 and 15 of "YOUR WILL BE DONE", shall be blazoned throughout the length and breadth of their respective constitutional jurisdictions?

There may be a modicum of truth in Mr. Justice Evatt's statement that:

"....a Governor-General could not safely exercise his reserve powers unless he had good reason to suppose that the electorate would vindicate his action. ...." (p. 305, ibid)

However, Your Excellency, that observation could only apply, if it did apply, to a dismissal of a set of Ministers or a dissolution of a House or Houses of a Parliament. It does not, and legally cannot, apply to action to ensure that Her Majesty's Australian people are not deliberately misled as to the said legal truths.

"YOUR WILL BE DONE", together with this letter - copies of which in due course will be circulated throughout Australia - constitute: part of the continuing campaign, which the undersigned initiated a long time ago, to lawfully unite the Australian people with Her Majesty's Vice Regal Representatives in mutual understanding and confidence; a union that can, and will, easily withstand the combined assaults of the manipulators of the party system and propaganda of the pro-republican anti-Monarchical forces in Australia; a campaign that will drive home to every Parliamentarian the true nature of his legal fiduciary responsibilities to the Australian people.

As it stated on page VII of the "Introduction" to "YOUR WILL BE DONE": -

> "IN THE FINAL ANALYSIS IT IS THE CONSTITUTIONS AND LAWS OF THE COMMONWEALTH AND STATES, AND THE HIGH COURT INTERPRETATIONS OF SUCH, THAT DETERMINES WHAT WE CAN OR CANNOT DO IN OUR DAILY LIVES. IT IS, THEREFORE, TO THOSE CONSTITUTIONS, LAWS, AND COURT INTERPRETATIONS THAT WE MUST CONTINUOUSLY LOOK FOR GUIDANCE AND SUCCOUR IN OUR LIVING, WORK AND PLAY, AND NOT TO THE DISSEMBLING PARTY POLITICIANS. "

Your Excellency, if the contents of this letter transgresses the accepted protocols, it is pleaded in extenuation that when the ship of state is heading straight into the cliffs of destruction then the directions to abort disaster must ring out loud, clear and without equivocation if the ship and all aboard are to be saved.

I have the honour, Sir, to be one of Her Majesty's loyal and humble servants.

GOD SAVE THE QUEEN!

(Arthur A. Chresby)

Letter to: The Rt. Hon. Sir Ninian Stephens, P.C., A.K., G.C.M.G., G C.V.O., K.B.E., K. St. 6-12-1983

Telephone (076) 357825 6th December 1983

His Excellency, The Rt. Hon. Sir Ninian Stephens,
P.C., A.K., G.C.M.G., G C.V.O., K.B.E., K.St.
Governor-General of the Commonwealth of Australia
And Commander-in-Chief of the Defence Force, Government House,
CANBERRA. A.C.T. 2600

Your Excellency,

In a letter to Your Predecessor, under dated of 21 August 1979, concluded by stating: - *"Your Excellency, if the contents of this letter transgresses the accepted protocols, it is pleaded in extenuation that when the ship of State is heading straight into the cliffs of destruction the directions to abort disaster must ring out loud, clear and without equivocation if the ship and all aboard are to be saved.*

"The same extenuation is now most humbly and respectfully pleaded to the contents of this communication. In the penultimate paragraph of the above aforementioned letter it was written: *"In the final analysis it is the Constitutions and Laws of the Commonwealth and the States, and the High Court interpretations of such, that determines what we can or cannot do in our daily lives. I t is, therefore, to those Constitutions, Laws, and Court Interpretations that we must continuously look for guidance and succor in our living, work and play, AND NOT TO THE DISSEMBLING PARTY POLITICIANS."* The purpose of this submission is to clearly identify the 'grundnorm' of our Constitutional system with respect to the Monarchy, Governor-General and the High Court in our Parliamentary mechanism, and to respectfully stress to Your Excellency (as Her Australian Majesty's Representative) the extremely serious departures from that grundnorm, which the so-called constitutional 'conventions' are generating with increasing speed; to humbly point that Her majesty's Australian People will expect you to rigidly uphold that grundnorm, conventions non obstante.

More than most, Your Excellency should be well aware that, since the end of World War 11 at least, the High Court has been moving away from that grundnorm with a momentum that can only end in the total centralisation of all constitutional power in the hands of the so-called 'cabinet', which controls the machinery of the Commonwealth Parliament, and the elimination of the Monarchy and the Governor-General's Office as the final bulwark between that centralisation and the British birthright of our people as handed down; a birthright by law still operable in this Nation, through Chap. 29 Magna Carta of Henry 111 (1225), the 'Bill of Rights' (1688), Chap. 4 of "The Act of Settlements"

(1700) as secured by the 1931 "Statute of Westminster", sec.s 2, 3 and 4 thereof non obstante.

In the famous 'Engineer's Case' we thought we had clearly identified and established that ‘grundnorm’ in the words of Isaacs J (as he then was):

". . . *That instrument is the political compact* of *the whole* of *the people of Australia, enacted into binding law by the Imperial Parliament, and it is the chief and special duty* of *this Court faithfully to expound and give effect to it according to its own terms, finding the intention from the words of the compact, and upholding it throughout precisely as framed. . . .*

"Alas it was not to be for, as above stated, the Courts have wandered far and wide. To quote Lord Denning, M. R., in his famous: "The Discipline of Law":

"In the daily practice of the law, the most important subject is the construction of documents. Yet it is the subject on *which* opinions are *still much divided. There are strict 'constructionists' on the one hand: and the 'intention' seekers on the other hand. The strict constructionists go by the letter of the document, The 'intention' seekers go by the purpose of intent of the makers of it. "*

To wade through the increasing mass of the bewildering array of Reports of Courts, Conventions, and so forth, is to become aware of the expansion of weighty opinions which bury the grundnorm almost without trace.

Within the context of the written Constitution the High Court has been singularly concerned only as to whether that document gives the Parliament a particular power to enact a specific piece of legislation, I have yet to find any of its decisions that even pretend to glance towards whether Parliament has the 'authority' to use that power at the whim of those who control the Parliamentary machine. It has always been accepted by the High Court that a grant of power to the Parliament automatically grants the authority to use that power without the consent and authority of the Australian People. But does it? An identification of the grundnorm would demonstrate that it does not; that whilst a power is granted to a Parliament the 'authority' to exercise it belongs exclusively to the Australian people alone, as will be shown herein. Evatt J ("The King & His Dominion Governors"- 1936) did attempt an answer, to wit, on p. 298:

". . . *But, . . . , the Parliament is the Parliament for the time being only, and it does not necessarily reflect the will of the electorate for all purposes at all times. It will therefore have to be considered by ... peoples whether special safeguards are not required to prevent a complacent Parliament from surrendering constitutional powers by the method permitted by sec. 4 of the Statute of Westminster and without the specific consent or authority of the ... people concerned. . . . "*

Surely this was amply demonstrated by the Federal Parliament's action, without consulting the people, in ratifying certain international documents to attract powers and authorities that the Queen's Minister's knew they would never get from the people, as witness in the so-called 'Franklin Dam' and 'Koowarta' cases?

In this respect Evatt J, op cit., was, of course, in line with Dicey's dicta: (8th Ed. "Law of the Constitution", p. Ivii):

". . . *No fair-minded man will, especially at this moment, dispute that the passion for national independence may transform a government of partisans into a government bent on securing the honour and safety of the nation. But his fact, though of immense moment, ought not to conceal from us the inherent tendency of the party system to confer upon partisanship authority which ought to be the exclusive property of the nation.*

The. . . people would gain rather than lose by a check being placed on the constantly increasing power of the party system."

The nearest that the High Court ever came to answering the question of "from whence does authority come?" is to be found in a passage from the 'Engineer's case' :

". . . *When the people of Australia, to use the words of the Constitution itself, `united in a Federal Commonwealth,' they took power to control by ordinary constitutional means any attempt on the part of the National Parliament to misuse its powers. If it be conceivable that the representatives of the people of Australia as a whole would ever proceed to use their national powers to injure the people of Australia considered sectionally,*

it is certainly within the power of the people themselves to resent and reverse what may be done. . . . "

But what if, as at present and as referred to above, partisanship acquires powers by indirect means which prevent the people, though resenting, from reversing the situation? Evatt J, op cit., made valuable and valid comment on this, Sir, search the field of constitutional literature, dicta, and judicial decisions, as I have done over the past 50'years, and few indeed are the respected minds that make any attempt to identify that 'grundnorm'. Take the attached letter to me from Professor D.G. Benjafield (26 August 1968), then Dean of the Faculty of Law, University of Sydney. A careful analysis of the 2nd and penultimate paragraphs will clearly indicate an honest failure to get to the grundnorm. He raises the point, sincerely believed by successive Governor's General, and State Governors (as advised by their Ministers), that the powers of the Monarchy and its Representatives to come between the excesses of, to put it mildly, the Houses of Parliament, and the right of the people to be protected immediately

from those excesses, ought not to be discussed in public because it may endanger the availability of those powers so to protect.

Please note the final sentence in that penultimate para. : - *"The greatest guarantee of the availability of those powers for such a contingency is present silence on the matter. "*

Ye Gods, Sir! Why should this democratic life-giving information be constantly with-held from the knowledge of the people? Do you honestly believe, Sir, that the present pressures to change vital powers in the Constitution would be upheld by the people if they knew what it was about? Would they agree to surrender that grundnorm to the power drunk in-fighting of all political parties, as evidenced in recent years?

Your Excellency, once again I present to you a copy of the "SUGGESTED SPEECH TO THE NATION BY A GOVERNOR-GENERAL", that I wrote on 28th February, 1973 (almost 11 years ago) and which has been presented to every Governor General, including yourself, since that date. *It outlines in very simple diplomatic language the grundnorm of your powers and what they mean to the people of this great Nation as a constitutional INSURANCE for themselves and their grandchildren.* It shows why the past, and present, determined campaign by Ministers of the Crown to kill those powers should be rigidly resisted by the Governor-General backed by the people. As Evatt J, op cit., so strongly stated -- *"Surely it is wrong to assume that the Governor-General for the time being will always be a mere tool in the hands of the dominant party?. . . " (p. 305 ibid)*

I beg of you, Sir, to restudy "EVIDENCE THAT DEMANDS A VERDICT" (10 May 1982), which contained copy of a petition (10 February 1954) to Governor General, Sir William Slim and his reply which endorsed the main point of that Petition, and a copy of Letter (19 February 1954) to Mr. justice Dean of Victorian Supreme Court. Both of these documents embodied a series of vital constitutional questions that all Ministers of the Crown have religiously avoided answering; questions which, if answered, would mean the elimination of partisan domination of the Parliament and eradicating of their continued usurping of , and interference with, the grundnorm of the responsibilities of the Governor General to the Australian People.

In line with the objectives of this letter, Your Excellency's attention is drawn to an article, by a former Governor-General Sir Paul Hasluck, in Nov. 83 issue of "QUADRANT", pp.37-41, entitled: "Tangled in the Harness". (The Constitutional Debate). Like practically all your Predecessors Sir Paul, in a most brilliant exposition, makes the same errors with respect to 'Government', 'Executive' and etc., in mistaking the 'form for the substance', the 'conventions' for the ‘GRUNDNORM’. Thus much that is basic to the freedom of the people is lost, to use Sir Paul's own words, "TANGLED IN THE HARNESS". Sir! What is the purpose of a chair, a table, a plate, a cup? Surely it can only be to sit on, sit at, to eat off, to drink from? Despite all the myriad of real factors involved in their production

and marketing if they are not used to 'sit on, sit at, eat off and drink from', then there is no valid reason for their existence, other than to look at. Thus their 'grundnorm' can only be 'to sit on, to sit at, to eat off and drink from?' And so it is that the 'grundnorm' of our Constitutional Monarchy, our Governor-General and State Governors, Ministers of the Crown, politicians and Parliament is twofold:

• That of the Monarchy and its Representatives is to ensure that the WILL of the People, no matter what or how changeable, SHALL AT ALL TIMES PREVAIL, Ministerial advice non obstante.

• That of the Ministers, apart from being honorary members of the Executive Council, is to carry out the administration of their respective departments, according to the Statutes appertaining thereto and such directions, not inconsistent with those Statutes, as the Monarchy, and or its Representative, pronounce.

• That of the politicians, irrespective of party policies, directions or pressures, is, in the words of McKechnie (1912) in "The New Democracy and the Constitution" : -

"FIND WHA T THE PEOPLE WANT, AND SEE THA T THEY GET IT. "

As McKechnie says further: -

". . . *It follows that a cordial acquiescence in what is willed by the people for the present and for the future must continue to guide the utterances of all who knock at the carefully guarded doors of the Representative Chamber. . . . This spirit of meek prostration before 'the people's will' is the quintessence of modern democracy. . . . This change from a qualified to an unqualified sovereignty of the people involves a momentous shifting of the political centre of gravity. . . . Meanwhile it is accepted as axiomatic that in all circumstances and at all costs the will of the people must prevail. "*

With deep and humble respect study and research compels me to stress that, 'conventions notwithstanding' it is within Your Excellency's Constitutional power to insist that the Houses of Parliament directly ascertain what the people want and to legislate accordingly and, on behalf of the people, to strongly remind the Ministers and politicians what their true Constitutional functions and duties are. Certainly such is not to be the plaything of partisanship and the hidden manipulators of all political parties.

Sir, probably the greatest evil extant in the operation of Parliamentary system is the religious ecstasy with which all politicians, leaders, Ministers, Governors General and State Governors readily genuflect to the so-called Constitutional 'conventions'.

No matter how these 'conventions' erode the power of the people to control their Members and Senators AT WILL; no matter how these

'conventions' enable Ministers of the Crown to usurp powers belonging solely to the people and the Governor-General and State Governors; no matter how political parties, under false guise of mandates, politically and financially rape and mutilate Her Majesty's Australian People for purely Partisan ideology *the 'conventions have to be held sacrosanct.'*

So hypnotic are those 'conventions' that even eminent jurists have been mesmerised into accepting them and believing, in a multitude of cases, that they form a legitimate part of the written Constitution, ignoring that the two are complete opposites and that the twain cannot legitimately mix without disaster to the people. One must be forgiven for suggesting that it is a matter of concern that so many legal minds have been held consistently under the spell of the 'conventions', seemingly unable to extricate themselves.

Your Excellency, is it not past time that that spell is broken in the interest of Your People? You can break it, Sir by informing the people of the true nature of their Constitutional power and authority.

Reverting back to the illustration of the chair, table, plate and cup, op cit. Remove the 'conventions' from any consideration and look clearly at the Constitution, the Parliament, the Monarchy and its Representatives and, again, ask: Why do they exist? What is the sole and only reason for their being? Are they being correctly used in accordance with that-reason? Clearly whilst the 'conventions' exist, and are applied, then there is no way on God's earth that the Constitution, Monarchy, its Representatives, and Parliament can function as the grundnorm means them to function.

It must be obvious that without people Monarchies, Governor's General, State Governors, Parliaments, Ministers, politicians and parties could not exist thus, contrary to present and past practices, i.e. 'conventions', these things only exist to serve the people according to what the people want, *NOT WHAT OTHERS THINKS THEY OUGHT TO WANT, OR HA VE.* As the great Coke laid down: "law always intends to conform to reason. What is not reason is not law", and it would be against all reason for the Constitutional system to exist for itself, or for parties to make the Governor-General a prisoner through the chains of the 'convention'.

In reading our Constitutions we are entitled to apply, to the full, the maxims: "expressum facit cessare taciturn" and "expressio unius est exclusio alterius", which of course, makes it completely ultra vires for parties to claim to govern, to appoint Ministers and to have a mandate for whatever they choose to do.

Your Excellency, we must now reiterate the precise ‘grundnorm’ of the powers and offices of the Governor-General and State Governors. In "Horne v Barber (1920)" 27 C.L.R. p. 500, Isaacs J, as he then was, referring to the constitutional function and duty of a Parliamentarian, said, inter alia:

"when a man becomes a Member of Parliament, he undertakes high public duties. These duties are inseparable from the position: he cannot retain the honour and divest himself of the duties. . . ."

With humble respect, Sir, this same High Court ruling applies, with even more compelling force, to the even higher office of Governor-General. In all good conscience Governor's General, *under duress of Ministerial advice, have been persuaded to hand over the duties to the 'conventions'.* Without realising it they may have become 'mere tools in the hands of the dominant party' (Evatt J, op. cit.)

Sir, as long as Australian people are kept in complete ignorance of the ‘grundnorm’ of the Monarchy and the Governor-General (and State Governors) then so long will they continue to be victims of partisan platitudes in the furtherance of partisan ulterior motives, i.e. the retention of the 'conventions' to suit partisan purposes.

As far back as 1941, Sir, I made bold to codify the powers of Monarchy in the following sentence (reprinted in my little work "Your Will Be Done" in 1979):

The power, prerogatives and authorities of the Monarchy, the Governor - General, and State Governors, ARE THE BRAKES WHICH THE AUSTRA LIAN PEOPLE CAN APPLY AT ANY HOUR (without having to await any general election) TO BRING MINISTERS AND POLITICIANS TO A COMPLETE AND SUDDEN STOP, so as to receive from them, the electors, either fresh instructions, reprimand, or dismissal from service. It is beyond all legal challenge that Ministers of the Crown, in their partisanship, are deliberately bent on eliminating the past and existing powers of the Monarchy and its Representatives; to make the Governor-General "a mere tool in the hands of the dominant party."

An ever increasing number of Her Majesty's loyal and devoted subjects are becoming aware of this and are awaiting what Your Excellency's action will be. May Almighty God guide and protect you in the correct application of the Constitutional ‘grundnorm’ for it is you, Sir, *and you alone, who has the power to decide whether you high office dies with your retirement or resumes a position of strength that will stand straight and true as the focal point of the Australian People's daily democratic powers and authorities over DISSEMBLING PARTY POLITICIANS.*

I have the honour to be one of her Majesty's loyal and dedicated servants.

GOD SAVE THE QUEEN!

(Arthur A. Chresby)

Research Analyst In Constitutional Law and a former Federal M.P.

Grundnorm is a German word meaning "fundamental norm." The jurist and legal philosopher Hans Kelsen coined the term to refer to the fundamental norm, order, or rule that forms an underlying basis for a legal system.

Letter - Presented Amicus Curiae.

PERSONAL AND CONFIDENTIAL

Presented Amicus Curiae.

Your Honour,

Had it not been for two major factors this covering letter would never have been addresses to you for information. The two factors are: -

- The introduction into the Senate of a Bill for a referendum, entitled: "Constitutional Alteration (Fixed Term Parliament) Bill, 1981 ";

and

- The obvious party centralising processes which forced Her Majesty to hand over the future of Canada, not to the care and protection of the Canadian people - as propagated - but, to the warring political parties of that Nation.

It was the actions of the late Arthur Balfour (whose philosophy gave birth to two World tragedies) that was the origin of the 1931 Statute of Westminster which has led to the ever increasing destruction of the British Empire; leaving, apart from New Zealand, only Australia alongside Great Britain, and even Australia is now under sustained attack from pro-republican forces.

The late Sir Stafford Cripps (as a Minister of the Crown) publicly stilted that "it was essential to the coming of socialism that the British Empire be liquidated" Here he was echoing Professor Harold Laski's claim that the Monarchy could prevent the coming of socialism and Lenin's 1920 dictum that communisation of the world was not possible until the British Monarchy had been eliminated. A process now being pushed by party political perfidy.

As Your Honour would be well aware, the above-mentioned Bill, inter alia, seeks to obtain three basic re-arrangements of the Constitution as the first step towards setting up an Australian republic by 1988. They are: -

- To severely reduce the Senate's powers and authorities.

- To ensure an *uninterrupted three-year term for the political party in Office to further its aims and objects.* In this connection *we would do well to* consider the famous remark of the late Arthur Calwell: -

"You can't unscramble a politically scrambled egg!"

- To *ensure that the Governor-General* -

`. . . for the time being will always be a mere tool in the hands of the dominant party . . . "

(vide Late Mr. justice H. V. Evatt, of High Court, p. 305, "The King and His Dominion Governors", Oxford University Press, 1936 Edition) The undersigned would not have dared to address this letter to you had he not had evidence that several highly placed, and eminently, responsible persons *had not thought fit* to dismiss his research as beneath serious thought.

Leave is therefore taken to offer for information certain self-explanatory documents, including a specially prepared one of even date entitled: "Evidence That Demands A Verdict!", which present oft-forgotten constitutional evidence; evidence surreptitiously being side-stepped within the narrowed cloisters of academia.

You are assured that this covering letter - but not the attachments - will not see the light of day without your permission.

The writer has the honour to be one of Her Majesty's loyal and most active servants.

(Arthur A. Chresby)

Letter from – Dr D. G. Benjafield, Dean of The Faculty of Law
26-08-1968

The University of Sydney
FACULTY OF LAW

BW 5944

University Chambers
167 Phillip Street
SYDNEY, 2000

DGB: RMK 26th August, 1968.

Arthur A. Chresby, Esq.,
184 London Road,
BELMONT Qld. 4153.

Dear Mr. Chresby,

Several of my colleagues have read your letter of 18th August 1968, and the attached petition and correspondence with considerable interest.

It seems to us that you are concerned about a possible situation where Parliament (or, at least, Cabinet) does not represent the will of the people on a particular issue. An occasion where such a situation arises will fortunately be rare in our community. In normal circumstances the Governor-General will be justified in assuming - and the people will expect him to assume - that the Parliament and Government do sufficiently represent the will of the people. For the Governor-General to assert hie prerogative and constitutional powers at such a time would be to attract hostile attention to the continued existence of such powers and might only jeopardise their availability at a time when they might be needed. This, presumably, is the reason for His Excellency's decision not to make such a statement as that requested in your petition.

Most constitutional writers do recognize the continued existence of real powers in the monarch or her representative. The Queen herself has in recent years been called upon to exercise a discretion in deciding who shall be Prime Minister, on the resignations of Sir Anthony Eden (as he then was) and of Mr. Harold Macmillan. The Governor of New South Wales exercised his legal power when he dismissed Mr. Jack Lang. The Governor of Tasmania asserted his legal powers in recent years in deciding

whether to accede to the Premier's request for a dissolution. For a fictitious but convincing account of the exercise of prerogative power by the monarch, see a recently published novel "Send Him Victorious". It is possible to imagine a set of circumstances arising in which the Governor-General would have to consider whether to exercise his legal powers. The greatest guarantee of the availability of those powers for such a contingency is present silence on the matter.

Our feeling is that you may better serve your purpose if you were to submit your arguments to the Press or, better still, to a journal of some such body as the Constitutional Association of Australia or the Commonwealth Parliamentary Association.

Thank you for writing to us,

Yours sincerely, D. G. Benjafield,
DEAN OF THE FACULTY OF LAW.