

Originating application

No.

of

2013

Federal Court of Australia

District Registry: **VICTORIA**

Division:

Brian William Shaw

Applicant

And

AUSTRALIAN ELECTORAL COMMISSION

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place:

The Court ordered that the time for serving this application be abridged to. Date:/...../.....

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Brian William Shaw
Prepared by (name of person/lawyer) Applicant
Law firm (if applicable) N / A
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(include state and postcode)

Details of Claim / Cause of Action

On the grounds stated in the Statement of Claim, accompanying affidavit and other documents prescribed by the rules, the applicant claims:

1. Unconstitutional removal of the Crown

That on the 1st January 2004, the Federated State of Western Australia did enact an act titled "Acts Amendment Repeal (Courts and Legal Practice) Act". The overt act did remove the crown without the statutory referendum requirement found at Section 73.2 (E) & (G) of the Constitution Act 1889 Western Australia, causing the Federated State of Western Australia to separate from the Federation of the Commonwealth of Australia, and has such by permitting the former Federated State of Western Australia to participate in Commonwealth elections held "under the Crown", has created the situation whereby the applicant is being forced to cast an invalid and unconstitutional vote created by the respondent's fraud. The Western Australian State Constitution referendum requirement was omitted and as such is in breach of Section 106 of the Constitution of the Commonwealth of Australia.

Particulars

1.1 Constitution Act 1889 (West Australia)

Section 73.2 (E)

Expressed or implied in any way affects any of the following sections of this act namely:-

Sections 2, 3, 4, 50, 51 and 73

Shall not be presented for assent by or in the name of the Queen unless:-

Section 73.2 (G)

The Bill has also prior to such presentation been approved by the electors in accordance with this section and a bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

2. The Crown of the United Kingdom

The applicant states that the Act cited as the Commonwealth of Australia Constitution Act dated 9th July 1900 sets out in the preamble of such act, the Statutory Constitutional "owner" of such Act, by the words "under the Crown of the United Kingdom of Great Britain and Ireland". But, by the unlawful and unconstitutional removal of such crown with agreement from the Commonwealth, by the former Federated State of Western Australia, the Crown was removed and substituted without the statutory referendum found at Section 128 of the Commonwealth Constitution. The respondent, by not disclosing such fact, is attempting to defraud the applicant into casting an invalid, unconstitutional vote because of this fraud on the electorate and applicant.

Particulars

2.1 Acts Amendment and Repeals Courts and Legal Practice Act 2003 Western Australia

Section 121 Bail Act 1982 amended

- (4) Section 63 is amended by deleting "Crown" and inserting instead "State or The Commonwealth"

Section 123 The Criminal Code amended

- (5) Section 609 is amended by deleting "Crown" and inserting instead "State or the Commonwealth"

- (7) Section 633 is amended by deleting "Crown" and inserting instead "State or The Commonwealth"

3. The inclusion of the Commonwealth

The applicant states that the inclusion of the words "The Commonwealth" into this overt act in Western Australia, had no referendum consent whatsoever as per Section 128 Commonwealth Constitution, because no Commonwealth Act either exists or is in constitutional existence by the Parliament of the Commonwealth to permit the inclusion of the words "The Commonwealth" into the overt act in Western Australia, and as such the respondent is attempting to defraud the applicant to participate in an unlawful and illegal Commonwealth election involving and including the State of Western Australia.

Particulars

3.1 Commonwealth of Australia Constitution Act

Chapter VIII Section 128 (Portion only) - Alteration of the Constitution

This constitution shall not be altered "except" in the following manner:-
The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both houses, the proposed law shall be submitted to the electors qualified to vote for the election of members of the House of Representatives
(Portion only)

4. The Substitution of the Governor (Western Australia)

The applicant states that the Governor of the State of Western Australia by enactment of the overt act titled "Acts Amendment Repeal (Courts and Legal Practice) Act" enacted on 1st January 2004, did unlawfully remove Her Majesty Queen Elizabeth the Second, and substituted instead "The Governor" inclusive of the present Governor of the State of Western Australia, and as such by attempting to hold a Commonwealth Election inclusive of the State of Western Australia, the respondent is attempting to involve the applicant in electoral fraud compounding into treason and misprision of treason.

Particulars

4.1 Acts Amendment Repeal Courts and Legal Practice Act (W.A.)

Section 125 District Court of Western Australia Act 1969 amended.

(4) Section II (i) is amended by deleting "Her Majesty" and inserting instead "The Governor"

Section 130 Supreme Court Act 1935 amended

(3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"

5. The unconstitutional removal of the Queen

The applicant states that the unlawful, illegal and unconstitutional removal of The Queen from law within the State of Western Australia, invalidates any purported right for the State of Western Australia to participate in a Commonwealth Election purportedly held under The Crown and as such the respondent is attempting to involve the applicant in electoral fraud compounding into the serious indictable offences of treason and misprision of treason.

Particulars

5.1 Constitution Act 1889

Part 1 Parliamentary

2. Legislature to be constituted in Western Australia

(2) The Parliament of Western Australia consists of the Queen and the Legislative Council and the Legislative Assembly.

(3) Every Bill, after its passage through the Legislative Council and the Legislative Assembly shall "**subject to Section 73**", be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly asserted to by or in the name of the Queen

5.2 Constitution Act 1889 (Western Australia)

Part III A The Governor

50. Office of Governor

(1) The Queen's representative in Western Australia is the Governor who shall hold office during Her Majesty's pleasure.

(2) Abolition of or alteration in the Office of Governor shall not be affected by an act of Parliament except in accordance with Section 73. (2)

5.3 Constitution Act 1889 (Western Australia) Section 73(2)(g)

- (g) The Bill has also prior to such presentation been approved by the electors in accordance with this section, and a Bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

6. The Australia Act 1986

Section 14 Amendment of Constitution Act of Western Australia

The applicant states that The Australia Act of 1986 at Section 14 of such act did not abide by the statutory referendum requirement contained at Section 73 (2) of the Constitution Act 1889 of the State of Western Australia, in relation to the inclusion of Section 50 and Section 51 of the West Australian Constitution Act 1889 being included into The Australia Act of 1986, without the legal requirement of the consent of the electors as set out at Section 50 and Section 73 (2) of such State Constitution creating an invalid act. The respondent, by attempting to conduct a Commonwealth Election involving the applicant in such election, is attempting to involve the applicant in electoral fraud by consenting to and submitting to invalid legislation as per Section 6 of the Australia Act 1986.

Particulars

6.1 Australia Act 1986

Section 14

- (1) The Constitution Act 1889 of the State of Western Australia is in this section referred to as the Principal Act.
- (2) Section 50 of the Principal Act is amended in subsection (3):
 - (a) By omitting from paragraph (a):
 - (i) "and Signet"; and
 - (ii) "constituted under Letters Patent under the Great Seal of the United Kingdom";
 - (b) By omitting paragraph (b):
 - (i) "and Signet"; and
 - (ii) "whenever and so long as the office of Governor is vacant or the Governor is incapable of discharging the duties of administration or has departed from Western Australia"; and
 - (c) By omitting from paragraph (c):
 - (i) "under the Great Seal of the United Kingdom"; and
 - (ii) "during a temporary absence of the Governor for a short period from the seat of Government or from the State".

- (3) Section 51 of the Principal Act is amended:
- (a) By omitting subsection (1); and
 - (b) By omitting from subsection (2):
 - (i) "(2)";
 - (ii) "this section and in"; and
 - (iii) "and the expression 'Signet' means the seal commonly used for the sign manual of the Sovereign or the seal with which documents are sealed by the Secretary of State in the United Kingdom on behalf of the Sovereign".

6.2 Constitution Act 1889 (Western Australia)

Section 50 (2)

Abolition of or alteration in the office of Governor shall not be affected by an act of Parliament except in accordance with Section 73.(2)

6.3 Constitution Act 1889 (Western Australia)

Section 73 (2) A Bill that —

- (a) expressly or impliedly provides for the abolition of or alteration in the office of Governor; or
 - (b) expressly or impliedly provides for the abolition of the Legislative Council or of the Legislative Assembly; or
 - (c) expressly or impliedly provides that the Legislative Council or the Legislative Assembly shall be composed of members other than members chosen directly by the people; or
 - (d) expressly or impliedly provides for a reduction in the numbers of the members of the Legislative Council or of the Legislative Assembly; or
 - (e) expressly or impliedly in any way affects any of the following sections of this Act, namely — sections 2, 3, 4, 50, 51 and 73,
- shall not be presented for assent by or in the name of the Queen unless -
- (f) the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly, respectively; and
 - (g) the Bill has also prior to such presentation been approved by the electors in accordance with this section, and a Bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

7. The Oath of Allegiance broken

The applicant states that the statutory constitutional Oath of Allegiance and Constitution of The Commonwealth of Australia was broken by the unlawful enactment of the "Acts Amendment Repeal (Courts and Legal Practice) Act" on the 1st January 2004 in the State of Western Australia by all involved in such Act, and as such the unlawful and illegal removal and substitution of the statutory "Oath of Allegiance" and the concealment of the removal and substitution of such oath by the respondent, is an attempt to have the applicant participate in a primary act of treason in that the criminal element of the offence of treason is "Breach of Allegiance" as set out in R v Casement 1917 1KB 98 at 114. Treason and misprision of treason (concealment of treason) are twin offences and carry life imprisonment penalties. The Applicant refuses to submit to or conceal these serious indictable offences being committed by the Respondent.

Particulars

7.1 Constitution Act 1889 (West Australia)

Section 22 Oath or Affirmation of Allegiance

No member of the Legislative Council or Legislative Assembly shall sit or vote therein until he has taken and subscribed before the Governor, or some person authorised by the Governor in that behalf, an oath or affirmation of allegiance in the form set out in Schedule E.

7.2 Schedule E

I, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.

7.3 Acts Amendment Repeal Courts and Legal Practice Act (West Australia) 1st January 2004 enacted.

Section 130 Supreme Court Act 1935 amended

- (3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"
- (12) The second schedule is amended by deleting "Our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors" and inserting instead "The State of Western Australia"

8. The Writ for Senators

The applicant states that the unlawful removal of Her Majesty Queen Elizabeth the Second by the Governor of the former Federated State of Western Australia, by the overt act titled "Acts Amendment Repeal Courts and Legal Practice Act" and the

substitution of "The Governor" devoid of the state referendum required by Section 73.(2) of the State Constitution, compounds into the omission of the Commonwealth referendum because of the constitutional impact on Section 12 of the Constitution of the Commonwealth. By such action the respondent in attempting to hold a Commonwealth election violating the constitution and the rights of the applicant contained within the constitution, by concealing from the applicant and the electorate, the fact that the writ by the Governor of the State of Western Australia is an invalid writ creating an invalid Senate in Canberra.

Particulars

8.1 Commonwealth of Australia Constitution Act (1900)

Part II. The Senate

Section 12

"The Governor of any state may cause writs to be issued for elections of senators for the state. In case of the dissolution of the senate the writs shall be issued within ten days from the proclamation of such dissolution."

8.2 Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 (Western Australia)

Section 130 Supreme Court Act 1935 amended

(3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"

8.3 Constitution Act 1889 (West Australia)

Section 50 (2)

Abolition of or alteration in the office of Governor shall not be effected by an Act of Parliament except in accordance with Section 73 (2)

8.4 Constitution Act 1889 (West Australia)

Section 73.2 (E)

Expressly or impliedly in any way affects any of the following sections of this Act, namely Sections 2. 3. 4. 50. 51 and 73

Shall not be presented for assent by or in the name of the Queen

Unless

(G) The Bill has also "Prior to such presentation" been "approved by the electors" in accordance with this section.

And a Bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

8.5 Commonwealth of Australia Constitution Act

Section 106

The Constitution of each State of the Commonwealth shall, "subject to this Constitution" continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of The State.

8.6 Commonwealth of Australia Constitution Act 1900

Section 109

When a law of a State is consistent with a law of The Commonwealth, the latter shall prevail, and the former shall, "**To the extent of the inconsistency be invalid**".

9. Attainted of Treason

The respondent in attempting to hold a Commonwealth Election inclusive of the State of Western Australia after the Crown, and Monarch and Oath of Allegiance have been removed without the lawful constitutional adherence to the referendum requirement at Section 128 of the Commonwealth Constitution, the respondent is attempting to conduct an illegal election, but at the same time committing the serious indictable offence of treason, compounded by misprision of treason and other compounding offences and is attempting to involve the applicant in such criminal activity.

Particulars

9.1 R v Casement 1917 1 Kings Bench 98 at 114 (UK)

The criminal element for the offence of treason is a breach of duty of allegiance. The criminal element for the offence of misprision of treason is the concealment or keeping secret of any treason by a person.

9.2 Sykes v Director of Public Prosecutions (UK)

All England Law Reports. 1961 3 AllER 33 at 36
 "Now concealment of treason was itself treason".

9.3 Sykes v Director of Public Prosecutions (UK)

All England Law Reports. 1961 3 AllER 33 at 38
 "This is properly when anyone learns or knows that another has committed treason or felony, and he does not choose to denounce him to the King or His Council or to any Magistrate, but conceals the offence. This is misprision.

**9.4 Acts Amendment and Repeal (Courts and Legal Practice) Act 2003
Western Australia (No: 65 of 2003)**

Part 8: Amendments about the Crown.

Section 130 Supreme Court Act 1935 amended

(12) The Second Schedule is amended by deleting Our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors and inserting instead "The State of Western Australia".

**9.5 Commonwealth of Australia Constitution Act 1900
Section 44**

Any person who

- (ii) Is attainted of treason
Shall be incapable of being chosen or of sitting as a
Senator or a Member of the House of Representatives.

10. The Security of the Commonwealth

The applicant states that the respondent and all officers working within the corporation structure of the respondent is attempting to involve the applicant in the concealing of the criminal offence of treason by seeking to hold an election, after the Crown has been removed inclusive of Her Majesty and the Oath of Allegiance broken inclusive of a purported monetary penalty by failing to vote thereby violating the security of the Commonwealth.

Particulars

10.1 Criminal Code Act 1995 (Commonwealth)

Chapter 5 The Security of the Commonwealth
Part 5.1 Treason and sedition

Section 80.1 A Definition of Organization

- (A) A body corporate
- (B) An unincorporated body
whether or not the body is based outside Australia, consists of persons who are not Australian citizens, or is part of a larger organization.

Section 80.1 Treason

(1) A person commits an offence called treason, if the person,

- (D) levies war, or does any act preparatory to levying war, against The Commonwealth.
Penalty: Imprisonment for life

(2) A person commits an offence if the person

(A) Receives or assists another person who, to his or her knowledge, has committed treason with the intention of allowing him or her to escape punishment or apprehension

Or

(B) Knowing that another person intends to commit treason, does not inform a constable of it within a reasonable time or use other reasonable endeavours to prevent the commission of the offence.

Penalty: Imprisonment for life.

10.2 Crimes Act 1958 Victoria

No: 6231 of 1958 (Reprint No. 22)

Section 9A Treason

(1) A person who

(C) Levies war, or does any act preparatory to levying war, against The Commonwealth of Australia.

10.3. Crimes Act 1958 Victoria

No: 6231 of 1958 (Reprint No. 22)

Section 316 (2) (A) (viii)

Not to reveal or discover any unlawful association, society or confederacy or any illegal act done or to be done or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person or the import of any such oath or engagement.

11. State Offences

The applicant states that the respondent has concealed from the applicant and all electors of the Commonwealth of Australia, the State offences committed by the State of Western Australia and is now attempting to hold a Commonwealth Election "under the Crown", without disclosing the true facts thereby creating a constitutional problem for the applicant involving criminal activity.

Particulars

11.1 Crimes Act 1914 Commonwealth

Section 3 AA State offences that have a Federal aspect.

(1) (B) A State offence is taken to be covered by paragraph (1) (C) if the conduct constituting the State offence

- (A) Affects the interests of:
- (i) The Commonwealth or
 - (ii) an authority of the Commonwealth or
 - (iii) a constitutional corporation.

11.2 Constitutional Corporation

Crimes Act Commonwealth

Section 3 A A (5)

Constitutional Corporation means a corporation to which paragraph 51 (XX) of the Constitution applies.

12. Constitutional Corporation

The applicant states that the discovered fracture of the Constitution of both Western Australia and the Commonwealth and with the unlawful removal of the Crown without the required referendum does create a corporation nightmare in that every constitutional corporation currently operating with a Grant of Power under Section 51 of the Constitution of the Commonwealth is functioning and existing outside of the constitutional Grant of Power and as such, the respondent (a Constitutional Corporation) is attempting to defraud the applicant into voting in an invalid Commonwealth Election within a fractured Federation and fractured Constitution.

Particulars

12.1 Commonwealth of Australia - Constitution Act 1900

Section 51. In particular:-

- (i) Trade and commerce
- (ii) Taxation
- (iv) Borrowing money
- (v) Postal services
- (xii) Currency, coinage and legal tender
- (xiii) Banking
- (xiv) Insurance
- (xvi) Bill of exchange
- (xvii) Bankruptcy
- (xix) Naturalization
- (xx) Foreign corporations and trading or financial corporation formed within the limits of the Commonwealth
- (xxi) Marriage
- (xxii) Divorce
- (xxiv) Service and execution of court processes
- (xxv) Recognition of judgements
- (xxxviii) Exercise of power
- (xxxix) Matters incidental to the exercise of power

13. The False Oath of Office (Bryce and Rudd)

The applicant states that the words "Oath of Office" does not appear in the Constitution of the Commonwealth of Australia and in fact are words unlawfully and illegally substituted for the Constitutional words "Oath of Allegiance" and as such this means that the current Governor General Quentin Bryce did administer an unlawful oath in relation to Kevin Rudd and others. The respondent is attempting to defraud the applicant by the substitution of this false oath. The path taken is not the oath of the Constitution.

Particulars

13.1 Constitution of the Commonwealth of Australia - Section 42

Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor - General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

Quorum

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

13.2 Constitution of the Commonwealth of Australia - Schedule

Oath

"I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law, SO HELP ME GOD!

Affirmation

"I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law."

13.3 Oath of Office by Kevin Rudd (27th June 2013)

"I, Kevin Michael Rudd, do swear that I will well and truly serve the Commonwealth of Australia, her land and her people in the office of Prime Minister, so help me God".

Governor General Quentin Bryce

In administering the above quoted Oath, the Governor General did administer an unconstitutional Oath and as such Kevin Rudd was never legally sworn in.

14. Constitution of the Commonwealth of Australia, 1900

The applicant states that under the Constitution Section 80 affords, the right to a Jury Trial "by indictment" such indictment is obtainable via a Grand Jury indictment submitted to the Supreme Court of Victoria under Section 354 Crimes Act 1958:

All submitted prior to any purported abolition.

The applicant states that the respondent is involving the applicant in criminal activity.

14.1 Commonwealth of Australia Constitution Act 1900 Section 80.

The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

15. The Criminal Fracture of Federation

The applicant states that the respondent has concealed and continues to conceal the fact that by the criminal and unconstitutional removal of the Crown without the compulsory statutory referendum a criminal fracture of Federation has occurred and as such the respondent in attempting to hold and conduct a Commonwealth Election on the 7th September 2013 is attempting to involve the applicant in the criminal fracture of Federation.

Particulars

15.1 Commonwealth of Australia Constitution Act 1900

15.2 Acts Amendment and Repeal Courts and Legal Practice Act 2003 Western Australia

Section 123. The Criminal Code Amended

(7) Section 633 is amended by deleting "Crown" and inserting instead "State of the Commonwealth"

15.3 Commonwealth of Australia Constitution Act 1900

Section 128. The Constitution / House of Representatives

This Constitution shall not be altered except in the following manner:
The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

16. Disqualification

The applicant states that the respondent is concealing from the applicant and the Electors that Section 44 of the Constitution of the Commonwealth of Australia is the disqualification portion of the Constitution.

The applicant states that with the unlawful and unconstitutional removal of the Crown without the required referendum, no person or political party is qualified to vote in any election since this fracture

Particulars

Commonwealth of Australia Constitution Act 1900

Section 44 Disqualification

Any person who:

- (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or
- (ii) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or
- (iii) is an undischarged bankrupt or insolvent; or
- (iv) holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth; or
- (v) has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons;

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But subsection (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

17. The Writ

The applicant states that the respondent in collusion with the Australian Electoral Commissioner in addition to the current Governor General and Mark Dreyfus have issued the writ for the coming election listed for 7th September 2013, but have failed to disclose to the applicant and the people/electors of Australia that with the Fracture of Federation, the writ is not a valid writ granted under and by the Constitution of the Commonwealth of Australia.

Particulars**17.1 Acts Amendment and Repeal Courts and Legal Practice Act 2003
Western Australia**

Section 123. The criminal code is amended.

(5) Section 609 is amended by deleting "Crown" and inserting instead "State of the Commonwealth"

**17.2 Acts Amendment and Repeal Courts and Legal Practice Act 2003
Western Australia**

Section 130. Supreme Court Act 1935 Amended

(3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"

18. The Form 60

The applicant states that the respondent has issued a Form 60 nomination form for all candidates seeking to nominate for either a seat in the Senate or House of Representatives, such Form 60 does contain the question in relation to disqualification, but the respondent has accepted the signed Form 60 document from each candidate without disclosing the true facts to the nominated candidate or the criminal ramifications of the words "is attained of treason" contained in Section 44. The respondent has failed to disclose the fact that Her Majesty Queen Elizabeth the Second has been removed from Law within the Commonwealth of Australia and has accepted these Form 60 nominations and by such action is involving the applicant in Electoral fraud.

Particulars**18.1 Acts Amendment and Repeal Courts and Legal Practice Act 2003
Western Australia**

Section 130. Supreme Court Act 1935 Amended

(3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"

**18.2 Acts Amendment and Repeal Courts and Legal Practice Act 2003
Western Australia**

The Proclamation

By his Excellency Lieutenant General John Murray Sanderson, Companion of the Order of Australia, Governor of the State of Western Australia

I, the Governor, acting under Section 2 of the Acts Amendment and Repeal (Courts and Legal Practice) Act 2003, and with the advice and consent of the executive council, fix 1 January 2004 as the day on which that Act comes into

operation. Given under my hand and the public seal of the state on 23 December 2003 by command of the Governor.

J.A McGinty Attorney General

God Save the Queen

18.3 Constitution Act 1889 Western Australia

Section 50 (2)

Abolition of or alteration in the office of the Governor shall not be affected by an act of parliament except in accordance with Section 73 (2).

18.4 Constitution Act 1889 Western Australia

Section 73 (2) (G)

(G) The Bill has also prior to such presentation been approved by the Electors in accordance with this Section, and a Bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

18.5 Commonwealth of Australia Constitution Act 1900

Section 12 Issue of Writ

"The Governor of any State may cause writs to be issued for election of Senators for the State in the case of dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

18.6 Commonwealth of Australia Constitution Act 1900

Section 128 The Referendum Required

This Constitution shall not be altered except in the following manner:
The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

19. The Objection

The applicant states that the respondent by fraud and deception is attempting to hold a Commonwealth Election "under the Crown" without revealing the truth and as such this action is my objection and at the same time the revealing and discovering of serious indictable offences under the Criminal Codes

A. Criminal Code Act 1995 Commonwealth

B. Crimes Act 1914 Commonwealth

C. Crimes Act 1958 Victoria

20. Disputed Elections

The applicant states that Section 47 of the Constitution of the Commonwealth deals with the issue of disputed Elections, but, in practice the high court has assumed this role, but the applicant to such Court has the unconstitutional restriction of requiring special leave to appeal.

The applicant totally relies upon Section 47.

20.1 Commonwealth of Australia Constitution Act 1900

Section 47 Disputed Elections

Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

21. The Judicature

The applicant states that the respondent by conducting a Commonwealth Election on 7th September 2013 without disclosing to the applicant or people / electors of Australia that the Crown and Monarchy, plus Oath of Allegiance have been removed and substituted are attempting to rely on judicature structure and judges to both conceal and protect the lawful exposure of such attack upon the Constitution.

The applicant is affected by this concealment of such attack by the Courts of Australia.

Particulars

21.1 Acts Amendment and Repeal Courts and Legal Practice Act 2003 Western Australia

Section 130. Supreme Court Act 1935 Amended

(3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"

21.2 Commonwealth of Australia Constitution Act 1900

Section 71 Judicial Power and Courts

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

21.3 Commonwealth of Australia Constitution Act 1900

Section 5 Operation of the Constitution and Laws

This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.³

22 Judicial Corruption

The applicant states that the Judicature formed within the Constitution of the Commonwealth of Australia has become corrupted and as such is not performing within the Constitutional Grant of Power, evidenced by the enactment of the Act in Western Australia involving and implicating all officers of the Supreme Court of Western Australia in criminal activity involving an attack upon the constitutional rights and protection purportedly afforded to the applicant. All Courts and Judges inclusive of the High Court of Australia are wilfully concealing this discovered attack upon Federation and the resultant Constitution formed to make Federation function in accordance with an agreed written Constitution, between the people of the Commonwealth of Australia and Monarch of the United Kingdom of Great Britain and Ireland.

Particulars

22.1 Acts Amendment and Repeal Courts and Legal Practice Act 2003 Western Australia

Section 130. Supreme Court Act 1935 Amended

(3) Section 9 (1) is amended by deleting "Her Majesty" and inserting instead "The Governor"

22.2 Commonwealth of Australia Constitution Act 1900

Operation of the Constitution and Laws

5. The Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the judges, courts and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State, and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

23 The Australian Act 1986

The applicant states that any legal reliance upon The Australia Act 1986 by the respondent for permitting amendments or alterations to the Constitution of the Commonwealth of Australia are rebutted on the fact that no constitutional referendums were held in relation to either the State Requests Acts or the actual Australian Act a responsibility of the respondent to ensure compliance.

The applicant is Constitutionally affected by such non-compliance.

Particulars

23.1 The Constitution of the State of Western Australia Section 73 (2)

A Bill that:-

(A) Expressly impliedly provides for the abolition of or alteration in the office of Governor.

(E) Expressly or impliedly in any way affects any of the following sections of the act namely sections:- 2,3,4,50,51 and 73.

Shall not be presented for assent by or in the name of the Queen unless

(G) The Bill has acts prior to such presentation been approved by the electors in accordance with this section, and a Bill in consequence upon its presentation in contravention of this subsection shall have no effect as an act.

(5) "If a majority of the electors voting approve the bill, it shall be presented to the Governor for assent by or in the name of the Queen".

(6) "Any person entitled to vote at a General Election of Members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provision of this section either before or after a Bill of a kind referred to in subsection (2) is presented for assent by or in the name of the Queen.

23.2 The Constitution of the State of Queensland Section 53

REQUIREMENT FOR REFERENDUM

53. Certain measures to be supported by referendum. (1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely—

sections 1, 2, 2A, 11A, 11B, 14; and

this section 53

shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill

shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the *Elections Act 1915-1973* and of any Act amending the same or of any Act in substitution therefor.

Such day shall be appointed by the Governor in Council by Order in Council.

(3) When the Bill is submitted to the electors the vote shall be taken in such manner as the Parliament of Queensland prescribes.

(4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for reservation thereof for the signification of the Queen's pleasure.

(5) Any person entitled to vote at a general election of members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this section either before or after a Bill of a kind referred to in subsection (1) is presented for assent by or in the name of the Queen.

(6) **Act 24 Geo. 5 No. 35 preserved.** The provisions of this section shall in no way affect the operation of *The Constitution Act Amendment Act of 1934*.

Heading inserted by Act of 1977, No. 9, s. 7.

s. 53 inserted by Act of 1977, No. 9, s. 7.

23.3 The Constitution of the State of New South Wales Section 7

Power to alter constitution of Legislative Council or Legislative Assembly

The Legislature may, by any Act, alter the laws in force for the time being under this Act or otherwise concerning the Legislative Council or Legislative Assembly.

7A Referendum for Bills with respect to Legislative Council and certain other matters

(1) The Legislative Council shall not be abolished or dissolved, nor shall:

- (a) its powers be altered,
- (b) section 11A, Division 2 of Part 3 (sections 22G, 22H, 22I and 22J excepted), the Sixth Schedule or this section be expressly or impliedly repealed or amended,

(c) any provision with respect to the persons capable of being elected or of sitting and voting as Members of either House of Parliament be enacted, or

(d) any provision with respect to the circumstances in which the seat of a Member of either House of Parliament becomes vacant be enacted,

except in the manner provided by this section.

(2) A Bill for any purpose within subsection (1) shall not be presented to the Governor for His Majesty's assent until the Bill has been approved by the electors in accordance with this section.

(3) On a day not sooner than two months after the passage of the Bill through both Houses of the Legislature the Bill shall be submitted to the electors qualified to vote for the election of Members of the Legislative Assembly.

Such day shall be appointed by the Legislature.

(4) When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature prescribes.

(5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for His Majesty's assent.

(6) The provisions of this section do not apply to:

(a) a Bill for the repeal, the amendment from time to time or the re-enactment from time to time with or without modifications of:

(i) any of the provisions of section 15 or 38A, or

(ii) any provision for the time being in force so far as it relates to the subject-matter dealt with in any of the provisions referred to in subparagraph (i),

(b) a provision of a Bill, being a provision which would, upon its coming into operation, be a law referred to in section 22A (5),

(c) a provision of a Bill, being a provision with respect to the capacity of a person who holds or accepts an office of profit under the Crown specified in the Bill to be elected or to sit and vote as a Member of either House of Parliament,

(d) a provision with respect to the persons capable of being elected or of sitting and voting as Members of either House of Parliament which applies in the same way to the persons capable of being elected or of sitting and voting as Members of the other House of Parliament, or

(e) a provision with respect to the circumstances in which the seat of a Member of either House of Parliament becomes vacant which applies in the same way to the circumstances in which the seat of a Member of the other House of Parliament becomes vacant.

(7) (Repealed)

(8) In this section a reference to the Legislative Council shall be construed as a reference to the Legislative Council as reconstituted from time to time in accordance with this Act.

7B Referendum for Bills with respect to Legislative Assembly and certain other matters

(1) A Bill that:

(a) expressly or impliedly repeals or amends section 11B, 26, 27, 28 or 29, Part 9, the Seventh Schedule or this section, or

(b) contains any provision to reduce or extend, or to authorise the reduction or extension of, the duration of any Legislative Assembly or to alter the date required to be named for the taking of the poll in the writs for a general election,

shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section.

(2) On a day not sooner than two months after the passage of the Bill through both Houses of the Legislature the Bill shall be submitted to the electors entitled to vote at a general election of Members of the Legislative Assembly.

(3) The day referred to in subsection (2) shall be appointed by the Governor under and in accordance with the Constitution Further Amendment (Referendum) Act 1930 and any Act amending or replacing that Act.

- (4) When the Bill is submitted to the electors the vote shall be taken under and in accordance with the Constitution Further Amendment (Referendum) Act 1930 and any Act amending or replacing that Act.
- (5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for Her Majesty's assent.
- (6) Nothing contained in this section affects the operation of section 5B and a Bill to which this section would otherwise apply which has been submitted to the electors under and in accordance with section 5B and has been approved by a majority of the electors voting may be presented to the Governor for Her Majesty's assent as if this section had not been enacted.
- (7) The provisions of this section do not apply to a provision of a Bill, being a provision which would, upon its coming into operation, be a law referred to in section 29 (2).
- (8) The provisions of this section do not apply to a provision of a Bill, being a provision that would, upon its coming into operation, be a law that amends section 52 for the purpose of extending the application of Part 9 to additional judicial offices or classes of judicial offices.

23.4 The Constitution of the Commonwealth of Australia Section 128

This Constitution shall not be altered except in the following manner:
The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

23.5 The Australia Act 1986 Section 6

Manner and form of making certain State laws

Notwithstanding sections 2 and 3(2) above, a law made after the commencement of this Act by the Parliament of a State respecting the constitution, powers or procedure of the Parliament of the State shall be of no force or effect unless it is made in such manner and form as may from time to time be required by a law made by that Parliament, whether made before or after the commencement of this Act.

24 The Queensland Constitution

The applicant states that the respondent by attempting to hold a Commonwealth election on 7th September 2013 is relying on a fraudulent Constitution involving the State of Queensland. During the year 2001 the State of Queensland did enact a new Constitution using the Parliament and all politicians of such Parliament and such Constitution was enacted by the Governor, but, no lawful Constitutional State referendum was held in legal compliance with the condition set out at Section 53 of the Former Constitution and as such any Queensland State writ issued by the Governor of the State of Queensland that would attempt to gain a Constitutional Grant of Power from

the 2001 Queensland Constitution is a Grant of Power obtained by fraud affecting State Elections, but, in this action also affecting the Constitutional Operation of Section 12 of the Constitution of The Commonwealth of Australia implicating the applicant in electoral fraud.

Particulars

Queensland Constitution Section 53

REQUIREMENT FOR REFERENDUM

53. Certain measures to be supported by referendum. (1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely—

sections 1, 2, 2A, 11A, 11B, 14; and

this section 53

shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill

shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the *Elections Act 1915-1973* and of any Act amending the same or of any Act in substitution therefor.

Such day shall be appointed by the Governor in Council by Order in Council.

(3) When the Bill is submitted to the electors the vote shall be taken in such manner as the Parliament of Queensland prescribes.

(4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for reservation thereof for the signification of the Queen's pleasure.

(5) Any person entitled to vote at a general election of members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this section either before or after a Bill of a kind referred to in subsection (1) is presented for assent by or in the name of the Queen.

(6) **Act 24 Geo. 5 No. 35 preserved.** The provisions of this section shall in no way affect the operation of *The Constitution Act Amendment Act of 1934*.

Heading inserted by Act of 1977, No. 9, s. 7.

s. 53 inserted by Act of 1977, No. 9, s. 7.

25 The Victorian Constitution

The applicant states that the respondent by attempting to hold a Commonwealth Election that three documents are relevant to Victoria:

- A. The 1854 Document
- B. The 1855 Document
- C. The 1975 Document

The applicant states without going into detail that the 1855 document consisted of a three page United Kingdom Act with the amended Victorian Constitution attached, but, in 1975 the Parliament of Victoria did grant a new State Constitution purportedly replacing the former 1855 United Kingdom / Victorian Act without any valid or evident United Kingdom Act that actually replaced the United Kingdom portion of the 1855 document, but, the respondent seeks to rely on the validity of the Governor of the State of Victoria being able to issue a valid State writ for the senators of Victoria under Section 12 of the Constitution of the Commonwealth of Australia.

The applicant is aggrieved by this omission.

26 The Oath of Allegiance Removed

The applicant states that on 5th September 2000 the Parliament and Governor of the State of Victoria did cause to be introduced and enacted the Unconstitutional Act, titled the Courts and Tribunals Legislation (Further Amendments) Act 2000 such Act at Part 2 removes the Oath of Allegiance from the Legal Practices Act 1996 and as such places all officers of the Supreme Court of Victoria inclusive of the Governor into a criminal offence.

The applicant is being forced to participate in a Commonwealth Election that has now discovered criminal activity.

- 26.1** The Courts and Tribunals Legislation (Further Amendments) Act 2000 and is a purported State Act and is available to the Victorian Public / Electors, but will be tendered upon request.

27 Disputed Elections Section 47

The applicant states that in relation to the respondent attempting to conduct an Election outside of the Constitution the applicant does place legal reliance upon Section 47 of the constitution such section outranks the High Court jurisdiction and places the issue on the floor of the House.

Particulars

27.1 Commonwealth of Australia Constitution Act 1990

Section 47 Disputed Elections

Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

28 Indictment

The applicant states that the respondent is committing the serious indictable offence of treason and as such an indictment for treason can only be obtained by a Grand Jury. The applicant is aware that a number of Grand Jury applications have been lodged into the criminal jurisdiction of the Supreme Court of Victoria prior to 2010, but all judicial process in Victoria has blocked these applications.

Particulars

28.1 R v Parker 1977 VR22 at 42

In England the Queen prosecutors, a County may prosecute, or a single individual, but still in every case. The Crown really prosecutes, and even the Grand Jury prosecutes for the Crown, after information is filed, if a private prosecutor comes into Court, he may be permitted to prosecute for the Crown. It appears to me to be quite clear that once presentment is made anyone may take up prosecution in the Court.

28.2 R v McInnes +Ors 1940 VLR 416 at 420

“We must not assume the position of Law makers and we cannot redress grievances contrary to the intention of the Statute Law.”

28.3 McArdle v Lorne Campbell (Sept 1986)

“Such a formulation of the principle is clearly too wide for it would enable a person liable to be indicted by a Grand Jury to require this Court to hear his defence to the alleged offence. If the Court were to follow that course it would be usurping the function of the Grand Jury.

29 The Secret Government

The Applicant states that the Respondent has concealed from the Applicant and all electors the existence of a secret government, the government of Freemasonry. Such government activated the criminal removal of the Constitutional Crown without the Constitutional referendums.

30 United Nations AGENDA 21

The Applicant states that the Respondent by concealing the fracture of Federation is acting for and under the control of the United Nations Agenda 21. Such Agenda 21 has no Constitutional authority or mandate to operate within the Commonwealth of Australia.

Claim for Interlocutory Relief

1. The Injunction Application

Seeks the following:

The Applicant seeks an immediate injunction against the Respondent (Australian Electoral Commission) to prevent the holding of the coming Commonwealth Election listed for 7th September 2013. Such election is inclusive of the State of Western Australia, but, on the 1st January 2004, the State of Western Australia enacted an overt Act titled:

Acts Amendment and Repeal (Courts and Legal Practice) Act

At Part 8 of such Act, "Amendments about the Crown" the following did occur:

1. Her Majesty Queen Elizabeth the Second was removed and substituted.
2. The Crown was removed and substituted.
3. The statutory "Oath of Allegiance" was removed and substituted.
4. The Subjects were removed.

All statutory referendums were omitted inclusive of the principal referendum at Section 128 of the Constitution of the Commonwealth of Australia.

On the evidence evident in the named overt Act, the State of Western Australia cannot participate in a Commonwealth election held under the Constitution of the Commonwealth of Australia. Accordingly the injunction application must stand.

2. Applicant's address

The Applicant's address for service is:

Place: P.O.Box 800, Werribee, Victoria, 3427

Email: brianwshaw1947@gmail.com

The Applicant's address is:-

P.O.Box 800, Werribee, Victoria, 3427

Service on the Respondent

It is intended to serve this application on the Respondent.

Date:.

3. Address for Service of Respondent:

Australian Electoral Commission

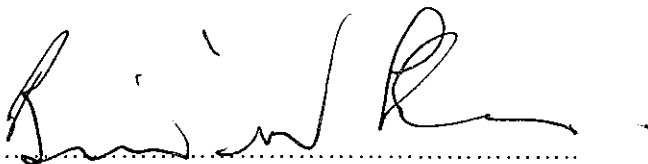
c/- Terrie Page

Divisional Returning Officer

Federal Seat of Lalor

Level 2 / 75-79 Watton Street

Werribee, Victoria, 3030



.....
Signed by Applicant
Brian William Shaw

Schedule

No. of 20

Federal Court of Australia
District Registry: Victoria
Division:

Brian William Shaw
Applicant

&

AUSTRALIAN ELECTORAL COMMISSION
Respondent

Date: 7 September 2013