SUPREME COURT OF QUEENSLAND
Registry Brisbane
Number

Applicant: ex parte Michael Thomas: Holt

APPLICATION FOR LEAVE (ex Parte)

The applicant is applying to the court for the following orders:

1. That since the Deputy Registrar has formed an opinion that the proposed action in the Supreme Court may be vexatious, and has received a Direction from a Judge that leave must be asked for before the proposed action is issued, leave is sought relying on the facts alleged in the accompanying Affidavit.

2. That until leave is granted it is not intended to serve the application for leave on any person in accordance with the Vexatious Litigant Practice Directions.

This application will be heard by the Court at Brisbane

on: _____at 10 am

Filed in the Brisbane Registry on _____ of _____2021.

R

Registrar:_____
(registrar to sign and seal)

On the hearing of the application the applicant intends to rely on the following affidavits:

1. Affidavit of Michael Thomas: Holt sworn _____/_____2021.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED
15 minutes

PARTICULARS OF THE APPLICANT:

Name: Michael Thomas: Holt
Applicant's residential or business address:

ORIGINATING APPLICATION
FOR LEAVE
Filed on Behalf of the Applicants(s)

Form 5, Version 1
Uniform Civil Procedure Rules 1999
Rule 26

Name: Michael Thomas Holt

Address: Withheld
Maroochydore Qld 4558

Phone No: XXXXXXX
Fax No:
Email: mikeh@commonlaw.earth

If the applicant has no solicitor:

applicant's address for service: Withheld, Maroochydore, Qld 4558
applicant's telephone number or contact number: xxxxxxxxx
applicant's fax number *(if any)*:
applicant's e-mail address mikeh@commonlaw.earth

Signed: _____

Description: Applicant

Dated: _____day of _____2021.

SUPREME COURT OF QUEENSLAND
Registry Brisbane
Number

Applicant: ex parte Michael Thomas: Holt

APPLICATION FOR LEAVE (ex Parte)

Affidavit of Michael Thomas Holt

I, Michael Thomas Holt, Commonwealth Public Official by virtue of S 13 and 15F Crimes Act 1914 (Cth) and the definitions in the Criminal Code Act 1995 Dictionary, make oath and say as follows:

1. In 2002 the Criminal Code Act 1995 was proclaimed and a section was added from the International Criminal Court Act 2002, Section 7, declaring certain sections of the Statute of Rome which is Schedule 1 to that Act, crimes against humanity.

2. S 24F Crimes Act 1914 (Cth) was repealed and moved to S80.3 Criminal Code Act 1995 and gives an absolute defence for Acts done in good faith, with a view to reforming or restoring civil and political rights.

3. 83.4 Criminal Code Act 1995 Interference with political rights and duties:
   (1) A person commits an offence if:
   (a) the person engages in conduct; and
   (b) the conduct involves the use of force or violence, or intimidation, or the making of threats of any kind; and
   (c) the conduct results in interference with the exercise or performance, in Australia by any other person, of an Australian democratic or political right or duty; and
   (d) the right or duty arises under the Constitution or a law of the Commonwealth.
   Note: The defence in section 80.3 for acts done in good faith applies to this offence.

4. When a person detects what he or she believes to be an excess of power by any State or Federal Government it is a Political Duty protected by the Criminal Code to bring that concern to a Supreme Court under S 56 and 58 Judiciary Act 1903, or the Federal Court of Australia under its Jurisdiction granted by S 39B Judiciary Act 1903 and have that conduct judicially reviewed, and if a breach has occurred, have a Penalty imposed.

5. In 1946 a Referendum was held in order to Authorise the Social Security Safety Net introduced by the Commonwealth, but a Caveat was placed upon Commonwealth power, that extends to all States, and evidenced in writing in Section 51 Placitum (xxiiiA) Constitution that no form of civil conscription is authorised to any Government.

6. In Breach of that Caveat, the Parliament of the Commonwealth in 1948 made the Nationality and Citizenship Act 1948 conscripting every subject of the Queen of the Constitution into becoming a citizen, a dual citizen of the State where they reside and the Commonwealth, and until now no action to judicially review that unlawful Act has ever been commenced.

7. A Professor of Law, one Henry J Abraham, publishing for Oxford University Press, in 1962 and seven subsequent Editions until 1997, published a tome called THE JUDICIAL PROCESS and in its Chapter VII evidences that Judicial Review is the Supreme Power over and above the Power of Parliaments, that any subject of the Queen of the Constitution may put in train, an action to test the Constitutionality of any State or Federal Legislation, edict or regulation, an extract from that textbook is **Exhibit MH1** to this my Affidavit.

8. Queensland is in a unique situation as it has had the Supreme Court Act 1995 from 1995 until 2011, but a copy may still be obtained and referred to even though it has been repealed, but in its repeal, S 11 Supreme Court of Queensland Act 1991 was inserted saving every declared Imperial Enactment declared in it, as still in force.

9. Since 1984 in Queensland, and in other States, but not the Commonwealth, an Imperial Acts Application Act 1984 was enacted declaring certain Acts in force in the United Kingdom in force in Queensland and not others, and specifically omitted were the Acts declared in force in the Supreme Court Act 1995. This was an Act of most serious omissions as the Statute 1 Will & Mary C 6 (Coronation Oath) (1688) was not declared in force, and the Oath of Allegiance to Her Majesty Elizabeth the Second is meaningless without it. A Copy of that Act and the Magna Carta is **Exhibit MH2** to this my Affidavit.

10. In 1803 in the United States of America the United States Supreme Court brought down a Decision called *Marbury V Maddison* 5 U S (1 Cranch) 137 (1803), where the Judicial Review became the Supreme Power in the hand of a court exercising Federal Jurisdiction.

11. In the case of *Fencott v Muller* (1983) H C A 12, a case commenced in the Supreme Court of Western Australia, and appealed to the High Court, it was said, by the four Judge Majority, at 21: "It is settled doctrine in Australia that when a court which can exercise federal jurisdiction has its jurisdiction attracted in relation to a matter, that jurisdiction extends to the resolution of the whole matter."

12. By S 118 Constitution, and S 54 and 56 Judiciary Act 1903 the Supreme Court in Queensland has power to exercise Federal Jurisdiction and its jurisdiction extends to whole Commonwealth as a Court of Judicature and for the purposes of this proceeding becomes a Federal Supreme Court, under S 71 Constitution.

13. In 1770 a Lord Chatham in the House of Lords declared the existence of an English Constitution. He explained that since 1215 the New Testament of the King James Version of the Holy Bible and enacted as the Magna Carta or

Great Charter, declared the law applicable to all subjects of the Queen of the Constitution. Exhibited hereto and forming part of this my Affidavit is that speech as **Exhibit MH3**.

14. In 1996, a full High Court in the case of Kable v the DPP of State of New South Wales (1996) H C A 24, a four judge majority stated, as Gaudron J states at 14: "Once the notion that the Constitution permits of different grades or qualities of justice is rejected, the consideration that State courts have a role and existence transcending their status as State courts directs the conclusion that Ch III requires that the Parliaments of the States not legislate to confer powers on State courts or authorise the State Courts to make Rules, which are repugnant to or incompatible with their exercise of the judicial power of the Commonwealth." **Exhibit MH4**

15. Rogue politicians in Queensland, New South Wales, Victoria, South Australia and other States, including the Commonwealth, have legislated to confer Rule Making Power on Judges, and in 2003, S 87 Judiciary Act 1903 was repealed in Act No 140 of 2003, stripping the power to review Rules of Court by the Parliament of the Commonwealth from that body. This ceding of power to the High Court and Federal Court of Australia as unelected bodies, offends the "Kable Principle". The High Court immediately made the High Court Rules 2004 that did not comply with the High Court of Australia Act 1979 S 33 and claimed power independent of the Royal Majesty, and The Present Supreme Court in Queensland does not claim power in the name of the Queen likewise.

16. As a Court exercising Federal Jurisdiction, I am seeking among other relief, that it address the issue of S 9 of the Australia Act 1986, which materially reads as follows: **State laws not subject to withholding of assent or reservation.** This creates an undemocratic dictatorship throughout the Commonwealth, that at present only the Queensland Supreme Court, by virtue of S 11 Supreme Court of Queensland Act 1991 can address.

17. This, in effect, has made the States not subject to the Commonwealth of Australia Constitution Act 1900 and Constitution, and is a licence to steal granted by the Parliament of the Commonwealth to the States, to allow them to mortgage the property of the subjects of the Queen of the Constitution internationally and trade and mortgage the labours and property of the people in the State as security for loans issued in American Dollars, and Registration as a Business in the United States of America to obtain those loans.

18. Since this section 9 Australia Act 1986, is a fraud on S 128 Constitution, which requires a Referendum to overrule the Constitution, in both Queensland, and the Commonwealth, and The Constitution Act 1867 (Q) S 53, and the abolition of as of right access to the Supreme Court which derive directly from the Crown not the Parliament through The Governor, can only be achieved after such referendum.

19. The Constitution Act 2001 (Q) in S 58, confirms the Supreme Court in Queensland has absolutely unlimited jurisdiction in law and equity subject to

the Commonwealth of Australia Constitution Act 1900 and Constitution.

20. In the Australian Capital Territory the Imperial Act 2 HEN 4 C 1 was declared law in the Australian Capital Territory, **FREE ACCESS TO COURTS ACT 1400 2 HEN 4 C 1 - SECT 4**
Every person shall be in peace
All his liege people and subjects may freely and peaceably, in his sure and quiet protection, go and come to his courts, to pursue the laws, or defend the same, without disturbance or impediment of any SECT 5 **Full justice shall be done**
Full justice and right be done, as well to the poor as to the rich, in his courts aforesaid. And by S 118 Constitution must be given full faith and Credit, and put to a jury as a feigned issue.

21. The "Feigned Issue" declared in the Supreme Court Act 1867 is a mechanism where a subject of the Queen of the Constitution can apply to the Supreme Court to Judicially Review Executive and Legislative Action, and politically, with twelve electors selected at random, decide as fact whether the actions of the Government and Executive are within the Legislative Power and power of Her Majesty Elizabeth the Second to assent to, so aggrieved electors do not have to wait for the next election to get justice, or resort to street demonstrations, and violence.

22. In IOL Petroleum V O'Neil (1996) Young CJ in Equity in New South Wales Supreme Court has explained it well, and I annex that decision which drew a wrong conclusion for Queensland, where it is not obsolete, to this Affidavit. **Annexure MH5.**

23. In 2021 a person from Western Australia obtained an admission from the Attorney General of the Commonwealth that the Present Great Seal of the Commonwealth is not supported by either a referendum or any other document, lawfully made, and as a result the amendments to the Royal Great Seal of Australia without the Crown made in 1933 and 1873, stripping the Royal Powers from the Courts and Parliaments, are not authorised. A Copy of the 1901 Seal with a Crown and 1973 Seal without a Crown are attached. **Exhibit MH6.**

24. I refer to the documents sought to be filed in Brisbane on the 20th October 2021, and assert that if dealt with according to law, they have the potential to exclude the Commonwealth of Australia from the proposed Gesara Law, the United States of America is seeking to impose upon the world, as a result of its demolition of the International New World Order, by the United States military, and allow us to retain the Crown, as we now have it and Our Constitution. **Exhibit MH7** is those documents.

25. In its administrative capacity, the Federal Court of Australia has refused Australia wide to allow the Laws of the Commonwealth to be enforced under their Federal Court (Criminal Proceedings) Rules 2016 and by S 18X Federal Court of Australia Act 1976 the Commonwealth can and needs to be sued as the responsible authority, and forced to amend its legislation where deficient.

26. Likewise, the State of Queensland is not entitled to exceed its legislative powers and override the Laws of the Commonwealth.

Taken and sworn at [Location] this ……. day of Month 2021

Deponent

A Justice of the Peace

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 1 To this my affidavit referred to in Paragraph 7 of the said Affidavit

Deponent

A Justice of the Peace

THE JUDICIAL PROCESS

HENRY J ABRAHAM
UNIVERSITY OF PENNSYLVANIA
Oxford University Press 1962
NEW YORK

AN INTRODUCTORY ANALYSIS OF THE COURTS OF THE UNITED STATES, ENGLAND AND FRANCE.

CHAPTER VII
JUDICIAL REVIEW:
I THE SUPREME POWER (page 251)

DEFINING JUDICIAL REVIEW

Certainly the most controversial and at times the most fascinating role of the "courts" in the United States in general and of the Supreme Court in particular is the exercise of the power of *judicial review.* It is commonly viewed with equal amounts of reverence and suspicion. In its full majesty and range it is a power that the *ordinary* courts: i.e. those that are part of the formal judicial structure – of merely a handful of other countries in the world possess with varying degrees of effectiveness; among these are Australia, Brazil, Burma, Canada, India, Pakistan, and Japan, of whom most have federal systems of government. It is all but axiomatic that the practice would be found more readily in federal than in unitary states. Briefly stated, judicial review is the power of any court to *hold unconstitutional and hence unenforceable any law, any official action based upon it, and any illegal action by a public official that it deems*— upon careful, normally painstaking, reflection and in line with the canons of the taught tradition of the law as well as judicial self-restraint – *to be in conflict with the Basic Law, in the United States its Constitution.* In other words, in invoking the power of judicial review, a court applies the *superior* of two laws, which at the level of the federal judiciary of the United States signifies the Constitution instead of some legislative statute or some action of a public official allegedly or actually based upon it.

In the United States which will serves as the chief subject in this treatment of judicial review, this highly significant instrument of power is theoretically possessed by every court, no matter how (page 252) high or low on the judicial ladder. Although admittedly unlikely, it is thus not impossible for a judge in a low-level court of one of the fifty states to declare a federal law unconstitutional! Such a decision would quite naturally at once be appealed to higher echelons for review and almost certain reversal, but the possibility does exist. Conscious of the nature and purpose of federalism and the need to permit legislative bodies to act in accordance with their best judgment, no matter how unwise that may well be at times, courts are loathe to invoke the judicial veto. Yet their power to do so, especially that of the Supreme Court of the United States, serves as an omnipresent and potentially omnipotent check upon the legislative branches of government. While the highest tribunal, has to date (Winter 1961-62) declared but 89 provisions of *federal* laws unconstitutional, out of a total of over 65,000 public and private laws passed, some 700 *state* laws and

provisions of *state* constitutions have run wholly or partly afoul of that judicial checkmate since 1789. A recent example of the latter action is the courts unanimous ruling in *Torcaso v Watkins* 367 U.S. 488 (1961) ; In it, it struck down a provision of the Maryland Constitution on the ground that to compel officeholders to declare a belief in God, constituted a "religious test for public office" that invaded the individual's right to religious freedom. In many ways the Court's power over state actions is of more significance to the federal system than the much more publicized and well-known power over federal actions.

Tables VII and VIII illustrate in some detail the power of judicial review over legislative enactments, as exercised by Supreme Court at *federal level* only. But it is interesting to note that more statutes of the State of Louisiana have been declared unconstitutional than those of any other state—Louisiana being the sole *state* with civil law at the base of its judicial system. Regarding the sparse number of federal statutes held unconstitutional by the post "anti-New deal" Supreme Court in recent times, the six provisions of congressional enactments that have Fallen since 1937 – actually since 1943 – all did so because they infringed personal liberties safeguarded under the Constitution, with three involving actions by military authorities who proceeded under congressional statutes. (P 253) The six Court decisions were as follows:

(1) *Tot V The United States* (1943) 319 U.S. 463. A Statutory presumption that a known criminal in possession of firearms or ammunition must have carried them in violation of the Federal Firearms Act section 2(f) was invalidated 8;0 as a violation of the due process of law clause of the Fifth Amendment. ……..(p 254)

State legislation too has – with generally minor exceptions – been held unconstitutional largely because of infringement of civil liberties, although a number of instances involved state interference with national interests. … P 255.

Thus, after the famous decision in *Marbury v Maddison* 1 Cranch 137 in 1803, to be described presently, in which Mr Chief Justice Marshall enunciated the doctrine of judicial review – although it was not really the first instance of its application – no other federal legislation was declared unconstitutional by his Court during the remaining 32 years of his long tenure of 34 years. The Circuit court for the District of Columbia did strike down 2:1 a congressional statute, in *US V Benjamin More* only six months after *Marbury v Madison*.

Nevertheless, the Marshall Court wielded immense power and, guided by the dominant figure of the great Chief Justice, did more than the other two branches of the national government to make the young United States a strong, vigorous powerful nation, and its Constitution a living, effective, elastic Basic Law.

P 267. A Historical Note;

The notion that courts, or some other body, should exercise judicial review as the guardian of a basic law or constitution stems primarily from the early European rejection of the idea of the inviolability of enacted law. One of the first statements clamoring for a type of judicial review was made in England—oddly enough in view

of the subsequent rejection of the concept (that led to the demise of the British Empire sic). It arose out of the famous *Dr Bonham's case* in (1610).

The King had granted to members of the London College of Physicians, the exclusive right to practice medicine in that city. Dr Bonham was charged with practicing medicine illegally, for he was not a member of that college. When the case came before Sir Edward Coke, he declared the charter void as a violation of the common law. Holding the latter to be supreme, Sir Edward thus stated that the courts could declare Acts of Parliament null and void: therefore, he held, common law was to be supreme: "When an act of Parliament is against common right and reason – the common law will control it and adjudge such act to be void." 8 co 188a.

But if Sir Edwards view was ever seriously adopted at all in England, it was promptly superseded when the Glorious Revolution of 1688 established the supremacy of Parliament.

Page: 268 JUDICIAL REVIEW AT HOME: The USA

In any event the evidence is persuasive that the vast majority of the delegates, Anti Federalists as well as Federalists favoured it – although for quite different reasons. …. The delegates… concurred in the pronouncement by Gouverneur Morris of Pennsylvania that the courts should decline to give weight of law, to "a direct violation of the Constitution."
Morris admitted that such control over legislation might have "its inconveniences" but it was nonetheless necessary because "even the most virtuous citizens will often as members of a legislative body concur in measures which afterwards in their private capacity they will be ashamed of."

___
Murphy J in 1984 stated the true position in Australia.

WHEN THE CONSTITUTION IS UNDERSTOOD ALL LAW BECOMES CERTAIN.

The late Lionel Murphy, an eminent lawyer and High Court Justice, said in the THE UNIVERSITY OF WOLLONGONG v. MOHAMED NAGUIB FAWZI AHMED METWALLY and others [1984] HCA 74; (1984) 158 CLR 447 (22 November 1984), the following passage, that should be framed and hung upon every lawyer's wall beside his qualifications.

Inconsistency

4. Our legal system is based on the principle that there cannot be inconsistent laws. This principle operates at Federal and State levels and whatever the source of law (constitutional, legislative, delegated legislative or decisional (common) law). If these laws would produce an inconsistency, then one prevails; the other or others are not law, and are often described as invalid or inoperative. The supremacy between what would otherwise be inconsistent laws is resolved in a number of ways. For example, where two laws emanate from one legislature, the later prevails. Where they emanate from different legislatures, constitutional law provides that one is superior, and its law

will prevail. In Australian constitutional law, there are two general supremacy clauses, one in the covering clauses of the Commonwealth of Australia Constitution Act (s.5) and the other in the Constitution proper (s.109). Another limited clause is s.105A (agreements with respect to State debts). Section 106 subjects State Constitutions to the Constitution; s.108 similarly subjects State laws to it.

Justice Murphy should have added that any law whatsoever that is inconsistent with the words of the Australian Constitution is automatically avoided, by reference to Section 15A *Acts Interpretation Act 1901* (Cth). Materially that section says: **Construction of Acts to be subject to the Constitution.** Every Act shall be read and construed subject to the Constitution and so as not to exceed the legislative power of the Commonwealth. To the intent that any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

The Scholarship of Henry J Abraham did not take account of the work of Holdsworth: whose History of English Law, underpins Australian Law, by the means of the Australian Courts Act 1828 S 24. (unrepealed).

A HISTORY OF ENGLISH LAW – by Sir William Holdsworth KC DCL Hon LL.D

Volume X

P 156- 159

In the Tudor and early Stuart period there were signs that judicial control might be superseded by the administrative control of the Council, The Star Chamber, and the Provincial Councils and the control of the judges of assizes was at that period administrative as well as judicial. But the result of the Great Rebellion and the Revolution had been to abolish this administrative control, and to make **the system of judicial control in effect the only control to which the organs of local government were subject.** The only way in which the justices could be forced to perform their duties, and the only way in which they could force the subordinate officials and units of local government to perform their duties, was by taking proceedings before the courts of law. Hence during the 18th Century, this judicial control of the units of local government is elaborated; and this elaboration is as we shall see the reason why special bodies of law connected with local government begin to be developed.

The manner in which this judicial control was exercised can be grouped under three main heads.

(i) **There is control which is exercised by proceedings initiated in the name of the Crown.** All through the eighteenth century the duties of townships and parishes in relation to such matters as road maintenance and poor relief; the many duties imposed upon the justices and upon the quarter sessions by the common law and by statute, were enforced either by the machinery of presentment and indictment, or by means of a criminal information, or by the prerogative writs. Even the departments of the

central government, though they might advise, could not compel, except through the machinery of the courts. Thus, when the County of derby failed to comply with the Militia Acts of 1757, 1765, and 1769, the government was obliged to issue a Writ of mandamus against the justices to compel them to raise their statutory quota of 560 men or pay 5 pounds per man. On the issue of this writ, the justices ordered the sum of two thousand eight hundred pounds to be raised; but nothing was done until another mandamus was threatened in 1773. Hence the departments of central government, like the private citizen, could only compel if they could show that an official or a community was subject to a legal duty, and that he or it had not fulfilled that duty. (p 157)

(ii) **The judicial control could be applied at the suit of the private citizen.** The private citizen could set in motion the different forms of procedure open to the Crown, and in addition he could bring a civil action. **This power to bring a civil action was an effective control, a safeguard of the liberty of the subject, and one of the best of all the securities for the maintenance of the supremacy of the law.**

Since breaches of the law, either arising from misfeasance or non-feasance, were generally a cause of action at the suit of the individual injured by them, civil proceedings could be taken against **all officials of the local government** by persons who had been injured by willful or negligent breaches of the law committed by them. **This responsibility of the officials of the local government to the law, at the suit of an injured individual had been a well recognized principle of the mediaeval common law; and we have seen that as a result of the Great rebellion and the Revolution, it had been extended to all servants of the Crown from the highest to the lowest.** The formality of the common law procedure, and the strictness of the rules of pleading sometimes caused this rule to press hardly on officials.

…But it was a valuable check upon the arbitrary exercise of their powers in an age when judicial control was the only effective check to which they were subject.

(iii) It often happened that a dispute arose between units of the local government – between parishes or between counties – as to the incidence of the liability for the performance of their duties. A dispute, for instance, might arise between parishes as to which of the two was liable to relieve a pauper, or as to which of the two was liable to maintain a road. All these disputes were settled by an appeal to the courts; and we shall see that much of the law upon such subjects as poor relief and highways originated in the decisions of the courts in these cases.

This mediaeval idea that **the organs of local government were autonomous, subject only to the control of the law, was and still is a leading principal of English public law**. It was applied in the Eighteenth and Nineteenth century much as it was applied in the sixteenth and seventeenth centuries. It is true that in the nineteenth century we can see the growth of an administrative control by departments of the central government, which recalls the control which the council of Star Chamber had begun to exercise in the sixteenth and early seventeenth centuries. But except in so far as statutes have transferred this control to departments of the central government, this judicial control is still dominant. Since therefore this particular mediaeval idea is as much part of the public law of the eighteenth century as of the earlier centuries, I shall

deal with its bearings on the public law of the eighteenth century when I speak of the relation of local to the central government. ……..

The Growth of Modern Ideas.

The autonomy of the organs of local government, subject always to the control of the law, was as much the outstanding characteristic of English Local Government in the eighteenth century as it had been in the Middle Ages. But we have seen that in the fourteenth and fifteenth centuries, it has been recognized that the law which controlled the activities of all persons, whether officials or not, and of all communities and corporations was a law that could be changed and added to by Parliament.1 The legislation of the Tudor period had built up a system of local government that sufficed for the needs of a modern state. Similarly the legislation of the eighteenth century attempted, not wholly successfully, to adapt that system to the needs of that century, This (p 159) legislation took three main forms...

General and Local Legislation;

We have seen that the stream of statutes, which gave the Justices of the Peace their position of decisive importance in the government of the counties and the boroughs, had begun to flow in the Tudor period. …….

1 This is not a correct Statement of law for Australia which enjoys a paramount written Constitution that cannot be changed except by a referendum.

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 2 To this my affidavit referred to in Paragraph 9 of the said Affidavit

Deponent

A Justice of the Peace

MH2

CORONATION OATH

The Statute is 1 Will & Mary C 6 (Coronation Oath) (1688) and may be found in Halsburys Statutes of England Vol 4 Constitutional law. Section 3.
Will you solemnly promise and sweare to governe the people of this kingdome of England and the dominions thereto belonging according to the Statutes in Parlyament agreed on and the laws and customs of the same?
The King or Queen shall say: I solemnly promise soe to doe.
Archbishop or bishop,
Will you to your power cause law and justice in mercy to be executed in all your judgments
King and Queene
I will
Will you to the utmost of your power maintaine the laws of God the true profession of the Gospell and the Protestant reformed religion established by law? and will you preserve to the bishops and clergy of this realme and to the churches committed to their charge all such rights and privileges as by law doe or shall appertaine unto them or any of them.
King and Queen
All this I promise to doe.
After this the King and Queen laying His and Her hand on the Holy Gospells shall say,
King and Queene
The things which I have here promised I will performe and keep,
Soe Help me God.
Then the King and Queene shall kiss the booke.

Magna Carta 1297 Statute

Clause 14: [14] A Freeman shall not be amerced for a small fault, but after the manner of the fault; and for a great fault after the greatness thereof, saving to him his contenement; and a Merchant likewise, saving to him his Merchandise; and any other's villain than ours shall be likewise amerced, saving his wainage, if he falls into our mercy. And none of the said amerciaments shall be assessed, but by the oath of honest and lawful men of the vicinage. Earls and Barons shall not be amerced but by their Peers, and after the manner of their offence. No man of the Church shall be amerced after the quantity of his spiritual Benefice, but after his Lay-tenement, and after the quantity of his offence.

Clause 29: [29] No Freeman shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man either Justice or Right.

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 3 To this my affidavit referred to in Paragraph 13 of the said Affidavit

Deponent

A Justice of the Peace

MH3

I quote the definition of the Rule of Law given by Albert Venn Dicey (1835-1922):

> "... every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The Reports abound with cases in which officials have been brought before the courts, and made, in their personal capacity, liable to punishment, or to the payment of damages, for acts done in their official character but in excess of their lawful authority. [Appointed government officials and politicians, alike] ... and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorise as is any private and unofficial person." (*Law of the Constitution*.)

LORD CHATHAM
(WILLIAM VISCOUNT PITT AND EARL OF CHATHAM)
1708-1778

The words with which the elder Pitt closed the reply to Lord Mansfield in arguing the Wilkes case in the House of Lords are at once the secret of his power, as an orator, and the explanation of his success as a statesman. “When law ends tyranny begins” he said as the final word of that great plea for the English Constitution. It is for this idea that he stands in the history of England and of English-speaking people. “The higher law” to which appeal is made when impatience of wrong will not wait on prescription for reforms. He did not recognize – or if he recognized it he combated it as a part of the tyranny which begins where prescription ends. What he dreaded most, and opposed most strenuously, for England was the arbitrary power which in its own right of assumed superiority undertakes to decide the present without regard to the past, without the previously given consent of those who are affected, and with regard to those precedents and rules of procedure, which, whether or not they have been enacted as legislation, have the force of law because they stand for regularity, for order, for the “due process”, for the sanity, and reasonable consideration which every man in or out of power owes to every other.

”We all know what the Constitution is “, said Chatham in the Wilkes case. “We all know that the first principle of it is that the subject shall not be governed by the “*arbitrium”* of any one man or body of men less than the whole legislature, but by certain laws to which he has virtually given his consent which are open to him to examine and are not beyond his ability to understand”.

That the weak, the subject, the defenseless, shall, “not be governed by the *arbitrium* of any one man” but only by the orderly processes of the justice which is necessary for their liberties and their defence – to hold that idea as Chatham held it, and to dare as much for it as he dared, would make any man great. Undoubtedly, he was one of the greatest men of England. “I have sometimes seen eloquence without wisdom and often wisdom without eloquence” said Franklin in speaking of him, “but in him I have seen both united in the highest possible degree”. No one who reads his speech in the Wilkes case in 1770, and after it the noble protest against the attempt to subjugate

America made by him in his address to the Throne in November 1777, is likely to dissent from this verdict. He attacked the arbitrary action of the King as fearlessly as he had attacked that of Parliament. If the con was in danger, he did not stop to consider the rank, the dignity, the power of those who threatened it. He threatened them on his side in the name of that which he recognized as the greatest force in affairs – of the law, the love of order, the due process, the justice and liberty which depend on "due process" under prescribed constitutional forms. If we wonder sometimes how the makers of the American Constitution could have gained so much wisdom which comes from the hatred of disorderly power, we have only to read the speeches of Chatham, made in the face of patriotic sentiment in England, in defiance of the royal prerogative, in contempt of all public opinion which supported arbitrary power, to understand that the American love of liberty is an inheritance from the generations whose spirit inspired him, when in the House of Lords he said, " I rejoice that America has resisted….I hope some dreadful calamity will befall this country which will open the eyes of the King."

He was not inconsistent in opposing American independence as he did in his last speech, delivered with what was almost literally his dying breath. He looked on Americans as Englishmen entitled to all their rights under the English Constitution, and he was glad to see them fight for them if they could enforce them no other way. But that as Englishmen they should join with France to free themselves from the Constitution and laws that he regarded with such reverence; that in doing so they should seek to "dismember the British Empire", seemed to him monstrous. Of the rights of humanity, he seems to have no governing conception. The rights of Englishmen were very dear to him, but it does not seem to have occurred to him that there was any compelling reason for respecting the rights of Frenchmen, of Spaniards, of Hindoos, or other foreigners, whose interests seemed to antagonize those of the British Empire. It is possible that he could have warmed, as Burke did, to the strongest indignation against British oppression in India, but it is for British liberty under English law, not for human liberty under the laws of nature or of God, that he stands distinctly. Yet taking him with all his limitations and weaknesses, with the pomposity which sometimes made him look ridiculous, and the vehemence which often made him unreasonable, he is still one of the noblest figures in the history of modern England.

He was born at Westminster, November 15, 1708. After studying at Oxford and serving in the army as Cornet of Horse, he entered Parliament in 1735, attracting immediate attention and winning the distinguished success of drawing the fire of Walpole, who complimented him by procuring his dismissal from the Army because of his attacks on the administration. From this time until he was raised to the peerage, in 1766, Pitt increased steadily in common favor. He was the "Great Commoner" and was in fact the first great popular parliamentary leader in English history. The most celebrated of his earlier speeches are only reported in fragments, but as a Commoner he could hardly have exceeded the fire of his denunciation of arbitrary power, when in the House of Lords, he asserted the spirit of English Liberty against the Tory policy towards America. He died May 11, at Hayes, where he was removed after his collapse in the House of Lords, April 7 of the same year.

THE ENGLISH CONSTITUTION

(A speech delivered in the House of Lords in the case of Wilkes January 8 1770)

There is one plain maxim to which I have adhered through life; that in every question in which my liberty or my property were concerned, I should consult and be determined by the dictates of common sense. I confess, my lords, that I am prone to distrust the refinements of learning, because I have seen the ablest and most learned men equally liable to deceive themselves and to mislead others. The condition of human nature would be lamentable indeed, if nothing less that the greatest learning and talents, which fall to the share of so small a number of men, were sufficient to direct our judgment and our conduct. But providence has taken better care of our common sense, a rule for our direction by which we can never be misled.

I confess my lords I had no other guide in drawing up my amendment which I submitted for your consideration; and before I heard the opinion of the noble lord who spoke last, I did not conceive that it was even within the limits of possibility for the greatest human genius, the most subtle understanding, or the acutest wit, so strangely to misinterpret my meaning, and to give it an interpretation so entirely foreign from what I intended to express, and from that sense which the very terms of the amendment plainly and directly carry with them. If there be the smallest foundation for the censure thrown upon me by that noble lord, if, either expressly or by the most distant implication, I have said or insinuated any part of what the noble lord has charged me with, discard my opinions forever, discard my motion with contempt.

My lords I must beg the indulgence of the House. Neither will my health permit me, nor do I pretend to be qualified to follow that noble lord minutely through the whole of his argument. No man is better acquainted with his abilities and his learning, nor has a greater respect for him than I have. I have had the pleasure of sitting with him in that other House, and always listened to him with attention. I have not now lost a word of what he said, nor will I ever. Upon the present question I meet him without fear. The evidence which truth carries with it is superior to all argument; it neither wants the support, nor dreads the opposition of the greatest abilities. If there be a single word in the amendment to justify the interpretation which the noble lord has pleased to give it, I am ready to renounce the whole. Let it be read my lords, let it speak for itself. [The amendment was read].

In what instances does it interfere with the privileges of the House of Commons? In what respect does it question their jurisdiction, or suppose an authority in this House to arraign the justice of their sentence. I am sure that every lord that will hear me will bear witness, that I said not one word touching the merits of the Middlesex election. So far from conveying my opinion upon that matter in the amendment, I did not even in discourse deliver my own sentiments upon it. I did not say that the House of Commons had done neither right or wrong. But when his Majesty has recommended to us to cultivate unanimity among ourselves, I thought it the duty if this House as the great hereditary council of the Crown, to state to His majesty the distracted condition of his dominions, together with the events which had destroyed unanimity amongst his subjects. But, my lords, I stated events as facts, without the smallest addition either of censure or opinion. They are facts, my lords, which I am not only convinced are true, but which I know are undisputedly true.

For example, my lords, will any man dispute that discontents prevail in many parts of his Majesty's dominions? Or that those discontents arise from the proceedings of the

House of Commons touching the declared incapacity of Mr Wilkes? It is impossible. No man can deny a truth so notorious. Or will any man deny that those proceedings refused, by a resolution of one branch of the legislature only, to a subject his common right? Is it not indisputably true, my lords, that Mr Wilkes had a common right, and that he lost it in no other way but by a resolution of the House of Commons? My lords, I have been tender of misrepresenting the House of Commons. I have consulted their journals, and have taken the very words of their own resolution. Do they not tell us in so many words, that Mr Wilkes, having been expelled was therefore incapable of serving in the Parliament? And is it not in their resolution alone that refuses to the subject his common right? The amendment says further that the electors of Middlesex are deprived of their free choice of a representative. Is this a false fact my lords? Will any man confirm that Colonel Luttrell is the free choice of the electors of Middlesex? We all know the contrary. We all know that Mr Wilkes (whom I mention without either praise or censure) was the favourite of the county, and chosen by a very great and acknowledged majority to represent them in Parliament. If the noble lord dislikes the manner in which these facts are stated, I think myself happy in being advised by him how to alter it. I am very little anxious about terms, provided the substance be preserved; and these facts, my lords, which I am sure will always retain their weight and importance in whatever form of language they are described. Now, my lords, since I have been forced into an explanation of an amendment, in which nothing less that the genius of penetration could have discovered an obscurity, and having, as I hope, redeemed myself in the opinion of the house, having redeemed my motion from the severe representation given it by the noble lord, I must a little longer entreat your lordships indulgence. The Constitution of this country has been openly invaded in fact; and I have heard with horror and astonishment, that very invasion defended on principle. What is this mysterious power, undefined by law, unknown to the subject, which we must not approach without awe, nor speak of without reverence – which no man may question and to which all men must submit?

My lords, I thought the slavish doctrine of passive obedience had long since exploded; and, when our Kings were obliged to confess that their title to the crown, and the rule of their government, had no other foundation than the known laws of the land, **I never expected to hear a divine right, or a divine infallibility attributed to any other branch of the Legislature**.

My lords, I beg to be understood. No man respects the House of Commons more than I do, or would contend more strenuously than I would to preserve to them their just and legal authority. Within the bounds prescribed by the Constitution, that authority is necessary to the well-being of the people. Beyond that line, every exertion of power is arbitrary, is illegal; it threatens tyranny to the people and destruction to the State.

Power without right is the most odious and detestable object that can be offered to the human imagination. It is not only pernicious to those who are subject to it, but tends to its own destruction. It is what my noble friend [Lord Littleton] has truly described it, *res detestabilis et caduca.* My lords, I reverence the just power, and reverence the Constitution of the House of Commons. It is for their own sakes, that I would prevent their assuming a power which the Constitution has denied them, lest, by grasping at an authority they have no right to, they should forfeit that which they legally possess. My lords, I affirm that they have betrayed their constituents, and violated the Constitution. Under pretence of declaring the law, they have made a law, **and united**

in the same persons legislator and judge!

I shall endeavour to adhere strictly to the noble lord's doctrine, which is indeed impossible to mistake, so far as my will permit me to preserve his expressions. He seems fond of the word jurisdiction; and I admit with the force and effect which he has given it, it is a word of copious meaning and wonderful extent. If his lordship's doctrine be well founded, we must renounce all those political maxims by which our understandings have hitherto been directed, and even the first elements of learning taught in our schools when we were schoolboys. My lords, we knew that jurisdiction was nothing more than 'jus dicere" We knew that *legem facere* and *legem dicere* (to make law and to declare it) were powers clearly distinguished from each other in the nature of things, and wisely separated from each other by the wisdom of the English Constitution. But now it seems we must adopt a new system of thinking!

The House of Commons, we are told, have a supreme jurisdiction, and there is no appeal from their sentence; and that, wherever they are competent judges, their decision must be received and submitted to us *ipso facto* the law of the land.

My lords, I am a plain man, and have been brought up in a religious reverence for the original simplicity of the laws of England. By what sophistry they have been perverted. By what artifices they have been involved in obscurity, is not for me to explain. The principles however, of the English laws are still sufficiently clear; they are founded in reason, and are the masterpiece of understanding; but it is in the text that I would look for a direction to my judgment, not in the commentaries of modern professors. The noble lord assures us that he knows not in what code the law of Parliament is to be found; that the House of Commons, when they act as judges, have no law to direct them but their own wisdom; that their decision is law; and if they determine wrong, the subject has no appeal but to heaven. What then my Lords? Are all the generous efforts of our ancestors, are all those glorious contentions by which they meant to secure to themselves, and to transmit to posterity, a known law, a certain rule of living, reduced to this conclusion, that, instead of the arbitrary power of a King, we must submit to the arbitrary power of a House of Commons? If this be true, what benefit do we have from the exchange? Tyranny, my lords, is detestable in every shape, but in none so formidable as when it is assumed and exercised by a number of tyrants. But this is not the fact; this is not the Constitution. We have a law of Parliament. We have a code in which every honest man my find it. We have the Magna Charta. We have the Statute Book, and the Bill of Rights.

If a case should arise unknown to these great authorities, we have still that plain British reason left, which is the foundation of our English jurisprudence. That reason tells us that every judicial court and every political society must be invested with those powers and privileges which are necessary for performing the office to which they are appointed It tells us also that no court of justice can have a power inconsistent with or paramount to, the known laws of the land; that the people when they choose their representatives never mean to convey to them a power of invading the rights or trampling on the liberties of those they represent. What security would they have for their rights, if once they admitted that a court of judicature might determine every question that came before it, not by any known positive law, but by the vague, indeterminate, arbitrary rule of what the noble lord is pleased to call the

wisdom of the court?

With respect to the decision of the courts of justice, I am far from denying them their due weight and authority; yet placing them in the most respectable view, I still consider them, not as law, but as evidence of the law. And before they can arrive even at that degree of authority, it must appear that they are founded in and confined by reason; that they are supported by precedents taken from good and moderate times; that they do not contradict any positive law; that they are submitted to without reluctance by the people ; that they are unquestioned by the Legislature(which is the equivalent of tacit confirmation); and what is in my judgment; is by far the most important; that they do not violate the spirit of the Constitution.

My lords this is not a vague or loose expression. We all know what the Constitution is. We all know that the first principle is that the subject shall not be governed by the *arbitrium* of any one man or body of men (less than the whole Legislature), but by certain laws, to which he has virtually given his consent. which are open to him to examine, which are not beyond his ability to understand. Now my lords, I affirm and am ready to maintain that the late decision of the House of Commons upon the Middlesex election is destitute of every one of the properties and conditions which I hold to be essential to the legality of such a decision. It is not founded in reason; for it carries with it a contradiction, that the representatives should perform the offices of the constituent body. It is not supported by a single precedent; for the case of Sir Robert Walpole is but a half precedent, and even that half is imperfect. Incapacity was indeed declared but his crimes are stated as the grounds of the resolution, and his opponent was declared to be not duly elected, even after his incapacity was established. It contradicts the Magna Charta and the Bill of Rights, by which it is provided that no subject shall be deprived of his freehold, unless by the judgment of his peers. Or the law of the land; and that election of members to serve in parliament shall be free. So far is this decision from being submitted to the people, that they have taken the strongest measures, and adopted the most positive language to express their discontent. Whether it will be questioned by the Legislature will depend upon your lordship's resolution; but that it violates the spirit of the Constitution will, I think be disputed by no man who has heard this day's debate, and who wishes well to the freedom of his country.

Yes, if we are to believe the noble lord, this great grievance, this manifest violation of the first principles of the Constitution, will not admit of a remedy. It is not even capable of redress, unless we appeal at once to heaven! My lords I have better hopes of the Constitution, and a firmer confidence in the wisdom and constitutional authority of this House. It is to your ancestors, my lords, it is to the English Barons, that we are indebted for the laws and Constitution we possess. Their virtues were rude and uncultivated, but they were great and sincere. Their understandings were as little published as their manners, but they had hearts to distinguish truth from falsehood, they understood the rights of humanity, and they had the spirit to maintain them.

My lords, I think that history has not done justice to their conduct, when they obtained from their sovereign that great acknowledgement of national rights contained in the Magna Charta; they did not confine it to themselves alone, but delivered it as a common blessing to the whole people. They did not say these are the rights of the great barons, or these are the rights of the great prelates. No, my lords, they said in the

simple Latin of the times, *nullus liber homo* (no free man) and provided as carefully for the meanest subject as the greatest. These are uncouth words, and sound but poorly in the ears of scholars; neither are they addressed to the criticism of scholars, but to the hearts of free men. These three words *nullus liber homo* have a meaning which interests us all, they deserve to be remembered – they deserve to be inculcated in our minds – they are worth all the classics. Let us not degenerate from the glorious example of our ancestors. Those iron barons (for so I may call them when compared with the silken barons of modern days) were the guardians of the people; yet their virtues my lords, were never engaged in a question of such importance as the present. A breach has been made in the Constitution – the battlements are dismantled – the citadel is open to the first invader – the walls totter – the Constitution is not tenable. What remains is for us to stand foremost in the breach or perish in it?

Great pains have been taken to alarm us with the consequences of a difference between the two Houses of Parliament; that the House of Commons will resent our presuming to take notice of their proceedings; resent our daring to advise the Crown, and never forgive us for attempting to save the State. My lords I am sensitive of the importance and difficulty of this great crisis; at a moment such as this we are called upon to do our duty; without dreading the resentment of any man. But if apprehension of this kind are to affect us, let us consider which we are to respect the most; the representative or the collective body of the people. My lords, 500 gentlemen are not 10 millions. And if we must have a contention, let us take care to have the English nation on our side. If this question be given up, the freeholders of England are reduced to a condition lower than the peasants of Poland. If they desert their own cause they deserve to be slaves. My lords, this is not merely the cold opinion of my understanding, but the glowing expression of what I feel. It is my heart that speaks. I know I speak warmly, my lords, but this warmth shall neither betray my argument nor my temper. The kingdom is in a flame. As mediators between the King and people, is it not our duty to represent to him the true condition and temper of his subjects? It is a duty which no particular subjects should hinder us from performing; and whenever his Majesty shall demand our advice, it will then be our duty to inquire most minutely into the cause of our present discontents. Whenever that enquiry shall come on, I pledge myself to the House to prove that, since, since the first institution of the House of Commons, not a single precedent can be produced to justify their late proceedings. My noble and learned friend (The Lord Chancellor Camden) has pledged himself to the House that he will support that assertion.

My lords, the character and circumstances of Mr Wilkes have been improperly introduced into this question, not only here, but in the **court of judicature** where his cause was tried – I mean the House of Commons. With one party he was a patriot of the first magnitude, with the other the vilest incendiary. For my own part, I consider him merely and indifferently as an English subject, possessed of certain rights which the laws have given him, and which the laws alone can take from him. I am neither moved by his private vices nor his public merits. In his person, though he were the worst of men, I contend for the safety and security of the best. God forbid, my lords, that there should be a power in this country of measuring the civil rights of the subject by his moral character, or by any other rule but the fixed laws of the land! I believe, my lords, I will not be suspected of any partiality to this unhappy man. I am not very conversant in pamphlets and newspapers; but from what I have heard, and from what little I have read, I may venture to affirm that I have had my share in the compliments

that have come from that quarter.

As for the motives of ambition, (for I must take to myself a part of the noble Duke's insinuation) I believe, my lords, there have been times in which I have had the honour of standing in such favour in the closet that there must have been something extravagantly unreasonable in my wishes if they might not all have been gratified. After neglecting those opportunities, I am now suspected of coming forward, in the decline of life, in the anxious pursuit of wealth and power which is impossible for me to enjoy. Be it so! There is one ambition at least, which I ever will acknowledge, which I will not renounce but with my life. It is the ambition of delivering to my posterity those rights of freedom which I have received from my ancestors. I am not now pleading the cause of the individual, but of every freeholder in England. In what manner this house may constitutionally interpose in their defence, and what kind of redress this case will require and admit of, is not at present the subject of our consideration.

The amendment, if agreed to, will naturally lead us to such an inquiry. That inquiry may, perhaps, point out the necessity of an Act of the Legislature, or it may lead us perhaps to desire a conference with the other House; which one noble lord affirms is the only parliamentary way of proceeding, and which another noble lord assures us the House of Commons would either not come to, or would break off with indignation. Leaving their lordships to reconcile that matter between themselves, I shall only say that, before we have inquired, we cannot be provided with materials, consequently we are not prepared at present for a conference.

It is not impossible, my lords, that the inquiry I speak of may lead us to advise His Majesty to dissolve the present Parliament; nor have I any doubt of our right to give that advice if we should think it necessary. His Majesty will then determine whether he will yield to the united petitions of the people of England, or maintain the House of Commons, in the exercise of a legislative power which heretofore abolished the House of Lords, and overturned the Monarchy. I willingly acquit the present House of Commons of having actually formed so detestable a design; but they cannot themselves foresee to what excesses they may be carried hereafter; and for my own part, I would be sorry to trust to their future moderation. Unlimited power is apt to corrupt the minds of those who posses it; and this I know, my lords, that where law ends, tyranny begins.

Commentary:

This remarkable speech, reflects the learning and scholarship that set Great Britain apart from all the rest of Europe. The Magna Charta was the manifestation, of the two commandments of Jesus Christ, adopted by the English in defiance of Rome, and the Constitution incorporated the Holy Bible, into the law of the land by the Magna Charta.

The Magna Charta reflects Matthew 23 verses 37-40, Thou shalt love the Lord thy God with all thy heart, and you shall love your neighbour as yourself. In other words, if a person would like a jury trial themselves, they have no right to insist another is

denied this right.

A jury trial is an act of worship, where a person asks Almighty God for forgiveness, and or, what is due to him, and is the basis of all property rights and freedoms whatsoever. The Text applicable to Australia is appended here:

Magna Carta 1297 Statute

Clause 14: [14] A free-man shall not be amerced *[given an arbitrary fine]* for a small offence, but only according to the degree of the offence; and for a great delinquency, according to the magnitude of the delinquency, saving his confinement: and a merchant in the same manner, saving his merchandise, and a villein, if he belong to another, shall he amerced after the same manner, saving to him his wainage, if he shall fall into our mercy; and none of the aforesaid amercements shall he assessed, but by the oath of honest and lawful men of the neighbourhood. Earls and barons shall not be amerced but by their peers, and that only according to the degree of their delinquency. No ecclesiastical person shall he amerced according to the quantity of his ecclesiastical benefice, but according to the quantity of his lay fee, and the extent of his crime. *[Contenement – livelihood; Wainage – chattels needed for livelihood, implements, seed-corn and stock]*

Clause 29: [29] No free-man shall be taken, or imprisoned, or dispossessed, of his free tenement, or liberties, or free customs, or be outlawed, or exiled, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land. To none will we sell, to none will we deny, to none will we delay right or justice.

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 4 To this my affidavit referred to in Paragraph 14 of the said Affidavit

Deponent

A Justice of the Peace

MH4

This Extract is taken from the 64 pages of this decision;

Kable V DPP of New South Wales (1996) 96/027

Four Judges out of six constitutes a binding majority.

Toohey J: (Judge 3)
The Supreme Court of New South Wales was required, at first instance and on appeal, to determine questions arising under the Constitution. In those circumstances s 39(2) of the Judiciary Act, read with s 77(iii) of the Constitution, conferred jurisdiction on the Supreme Court to determine those questions. Section 71 of the Constitution ensured that the judicial power of the Commonwealth was engaged in those circumstances.

20 To the extent that they are invested with federal jurisdiction, the federal courts and the courts of the States exercise a common jurisdiction (136). It follows that in the exercise of its federal jurisdiction a State court may not act in a manner which is incompatible with Ch III of the Commonwealth Constitution.

32. However the Act is invalid by reason of the incompatibility with Ch III of the Commonwealth Constitution that its implementation produces. If the Act operated on a category of persons and a defence to an application for a preventive detention order was confined to a challenge that the criteria in s 5(1) had not been met, different questions might arise. In that situation the judicial power of the Commonwealth might not be involved; that is something on which it is unnecessary to comment. But here the judicial power of the Commonwealth is involved, in circumstances where the Act is expressed to
operate in relation to one person only, the appellant, and has led to his detention without a determination of his guilt for any offence. In that event validity is at issue, not simply the reach of the Act in a particular case.

Gaudron J: Judge 4.
2. Several arguments were advanced in favour of the appellant's contention.

I need deal with one only, namely, that Ch III of the Constitution impliedly prevents the Parliament of a State from conferring powers on the Supreme Court of a State which are repugnant to or inconsistent with the exercise by it of the judicial power of the Commonwealth.

11. If Ch III requires that State courts not exercise particular powers, the Parliaments of the States cannot confer those powers upon them. That follows from covering cl 5, which provides that the Constitution is "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 from s 106, by which the Constitution of each State is made subject to the Australian Constitution.

12. Were they free to abolish their courts, the autochthonous expedient, more precisely, the provisions of Ch III which postulate an integrated judicial system would be frustrated in their entirety. To this extent, at least, the States are not free to legislate as they please.

McHugh J. Judge 5.

21. In the case of State courts, this means they must be independent and appear to be independent of their own State's legislature and executive government as well as the federal legislature and government. Cases concerning the States, the extent of the legislative powers of the States and the actions of the executive governments of the States frequently attract the exercise of invested federal jurisdiction. The Commonwealth government and the residents and governments of other States are among those who litigate issues in the courts of a State. Quite often the government of the State concerned is the opposing party in actions brought by these litigants. Public confidence in the exercise of federal jurisdiction by the courts of a State could not be retained if litigants in those courts believed that the judges of those courts were sympathetic to the interests of their State or its executive government.

25: But under the Constitution the boundary of State legislative power is crossed when the vesting of those functions or duties might lead ordinary reasonable members of the public to conclude that the State court as an institution was not free of government influence in administering the judicial functions invested in the court.

30: But the most significant of them is that, whilst imprisonment pursuant to Supreme Court order is punitive in nature, it is not consequent upon any adjudgment by the Court of criminal guilt. Plainly, in my view, such an authority could not be conferred by a law of the Commonwealth upon this Court, any other federal court, or a State court exercising federal jurisdiction. Moreover, not only is such an authority non-judicial in nature, it is repugnant to the judicial process in a fundamental degree.

32. However the Act is invalid by reason of the incompatibility with Ch III of the Commonwealth Constitution that its implementation produces. If the Act operated on a category of persons and a defence to an application for a preventive detention order was confined to a challenge that the criteria in s 5(1) had not been met, different questions might arise. In that situation the judicial power of the Commonwealth might not be involved; that is something on which it is unnecessary to comment. But here the judicial power of the Commonwealth is involved, in circumstances where the Act is expressed to
operate in relation to one person only, the appellant, and has led to his detention without a determination of his guilt for any offence. In that event validity is at issue, not simply the reach of the Act in a particular case.

Gummow J: Judge 6.

13. The appellant points to the particular characteristics of the provision made by the Constitution for the federal judicial power, which were identified by Deane J in Re Tracey; Ex parte Ryan (231). His Honour said: "The power to adjudge guilt of, or determine punishment for, breach of the law, the power to determine questions of

excess of legislative or executive power and the power to decide controversies about existing rights and liabilities all fall within the concept of judicial power. The Executive Government cannot absorb or be amalgamated with the judicature by the conferral of non-ancillary executive functions upon the courts. Nor can the Executive itself exercise judicial power and act as prosecutor and judge to punish breach of law by executive fiat or decree. The guilt of the citizen of a criminal offence and the liability of the citizen under the law, either to a fellow citizen or to the State, can be conclusively determined only by a Ch III court acting as such, that is to say, acting judicially. For its part, the Parliament cannot legislate either to destroy the entrenched safeguards of Ch III or to itself assume the exercise of judicial power."

15. The final steps in the appellant's submissions are as follows. First, the structure of the Australian Constitution, especially Ch III, does not permit of an Australian judiciary exercising the judicial power of the Commonwealth but divided into two grades, an inferior grade, namely the possessors of invested federal jurisdiction who are subject to the imposition and receipt of incompatible functions under State law, and a superior grade, comprising this Court and other federal courts which are not subject to the imposition and receipt of such functions whether pursuant to Commonwealth or State law. The second step is that the Constitution, and especially Ch III, assumes and requires, at least as regards the Supreme Courts of the States, an institutional integrity of the State court structure which may not be undermined by the reposition in them of authorities and powers of the nature of those in the Act.

60. The expedient provided for in s 77(iii) would be frustrated if there were no system of State courts to provide these substitute tribunals as repositories of the judicial power of the Commonwealth. Federal jurisdiction could not be invested in a State body which was not a "court" within the meaning of s 77(iii) (270).

64. There may be some uncertainty as to the range of statutes (Imperial and local), instruments, conventions and practices which together, or only in some limited fashion, comprise the Constitution of a State as it existed at the establishment of the Commonwealth (272). It is unnecessary to resolve any such uncertainties at this stage. That is because the Constitution, in the relevant sense, of the colony of New South Wales undoubtedly included the Imperial statute, the New South Wales Constitution Act 1855 (Imp) (273). Section 1 thereof authorised the Crown to assent to the Bill set out in Sched
1 which had been passed by the then New South Wales Legislative Council. Clause 42 of the scheduled Bill stated:

"All the Courts of Civil and Criminal Jurisdiction within the said Colony and all Charters legal Commissions Powers and Authorities and all Officers judicial administrative or ministerial within the said Colony respectively except in so far as the same may be abolished altered or varied by or may be inconsistent with the provisions of this Act or shall be abolished, altered or varied by any Act or Acts of the Legislature of the Colony or other competent authority shall continue to subsist in the same form and with the same effect as if this Act had not been made."

S 38 preserved the commissions of the present judges of the Supreme Court of the colony. **With the coming of federation, the effect of the new Constitution was to render the Supreme Court as it stood at the establishment of the Commonwealth, the Supreme Court of the State of New South Wales**. But that transmutation was effected "subject to the Constitution" (274).

74. However, in my view, the issue in the present case is best resolved by recourse to the proposition that the Constitution itself is rendered, by covering cl 5, binding on the courts, judges and people of every State notwithstanding anything in the laws of any State. The particular characteristics of the Supreme Court against detraction from which, or impairment of which, by the Act the appellant complains, are mandated by the Constitution itself. Of course, the effect of the constitutional mandate is the protection of the Commonwealth judicial power as and when it may be invested. But the vice from which the Act suffers is not removed by the operation of s 109 upon inconsistent laws. It is removed by the operation of the Constitution itself.

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 5 To this my affidavit referred to in Paragraph 22 of the said Affidavit

Deponent

A Justice of the Peace

ANNEXURE MH5

IOL PETROLEUM LTD v JOHN O'NEILL & ORS

2334/94

THURSDAY 29 AUGUST 1996

THE SUPREME COURT OF NEW SOUTH WALES EQUITY DIVISION

YOUNG J

JUDGMENT

HIS HONOUR: This is an application by the plaintiff by notice of motion that the proceedings be tried with a jury.

These proceedings were commenced in the Equity Division in 1994 for orders resulting from alleged loss to the plaintiff as a result of the activities of the first, second and third defendants in a corporate joint venture. It is alleged that the fourth defendant, the State Bank of New South Wales, is also liable to the plaintiff because of its involvement in those activities. As the Registrar was having difficulty getting the case ready for trial, it was referred to me for case management and has been in my list for that purpose for about ten months.

The plaintiff's application for a jury is resisted by the first, second and fourth defendants, the third defendant not appearing.

Mr McQuillen, for the plaintiff, urges trial by jury for two basic reasons. The first is that in an issue of fraud, or perhaps generally, jury trial is the sacred bulwark of the nation and is to be preferred to other methods of trial. The second is that the flavour of ss 85 to 89 of the Supreme Court Act makes it clear that the judge has a discretion as to the mode of trial and further indicates that, with any fraud matters, trial by jury may be a preferable course.

The submissions based on the history of juries seem to have derived from what the Court of Appeal said when dealing with a Common Law judge's order of his own motion to deny a trial by jury in a hospital negligence case; **Pambula District Hospital v Herriman** (1988) 14 NSWLR 387. As Mr Russell, for the fourth defendant, has pointed out that case is no real guide to the present because the court was there dealing with the situation where there was a right to a jury at Common Law in the circumstances that had happened. However, Kirby P does at pp 394-397 trace through in outline the history of jury trials and Blackstone's phrase "sacred bulwark of a nation" occurs at the top of p 395.

The argument of history does not appeal to me very much at all. The potted version given by Kirby P in the **Pambula** case does not, nor was it intended to, deal with the full history of the system.

At Common Law the civil jury as we now know it evolved through a series of accidents of history. In the Middle Ages trial was by God, not by man, and thus by ordeal or by compurgation until and indeed even after the writ of trespass came into being in about 1250. That writ provided for a superior method of trial in the eyes of more progressive thinkers, namely by the men of the locality certifying what the facts were to the Commissioner of oyer and terminer or nisi prius, who was sent out to the country to inquire into the matter. The writ to the local sheriff provided that all those local men who knew something about the matter were to come into Westminster, unless before (nisi prius) a Commissioner visited the area in the meantime. The Commissioners of nisi prius were sent out into the locality two by two during the vacations between law terms. The Commissioners may or may not have been judges of the court where the suit was pending.

Initially the Commissioners found out from the local inhabitants what the truth was, answered the question in issue for trial and awarded the postea to the successful party. At the beginning of the next term the Court in Banc then considered what judgment should be given.

As time went on the jury changed from being a group of witnesses to impartial triers of fact; the watershed being **Bushell's** case in (1670) Vaughan 135; 124 ER 1006. However, the theory was still the same. A Common Law action was divided into three parts, (a) ascertainment of the issues for trial in Westminster; (b) the trial at nisi prius before a Commissioner and a jury in the country where the event had happened; and (c) judgment before the Court in Banc in Westminster.

In New South Wales trial by jury was introduced in principle by the New South Wales Act of 1823 9 George IV, chapter 96, but initially juries were military assessors and it was not until the Act 8 Victoria IV in 1844 that civil juries of four were introduced as we now know them in New South Wales.

It would seem that four were selected because there was a very limited number of free citizens of appropriate qualifications who could serve on a jury. Thereafter, until the coming in of the Supreme Court Act, the jury was the ordinary method of trial at Common Law.

However, it must be remembered that the way in which the jury system worked at Common Law up until 1972 was much the same as it worked in England last century. First, issues for trial were produced. This was by the pleading system introduced by the rules of Hilary term 1834, which were adopted in New South Wales, of the plaintiff putting out his story (called "count" after the French word "conte", a little story) in recognisable legal form in a document called a declaration, to which the defendant would then put on a plea.

With certain exceptions, such as pleas of abatement and pleas requiring novel assignment by the plaintiff, the plea was either a confession and avoidance or a traverse. If it was a traverse the replication joined issue and would produce a question to which a jury could answer yes or no. If the plea was a confession and avoidance then either in the replication there would be a traverse and then there could be a joinder of issue in the rejoinder, or else somewhere along the line a traverse would be produced, which would allow the jury to find yes or no to a particular question.

The pleadings were then reproduced into a document called "Issues for Trial". In England and Australia last century these were then put in the saddlebag of the judge going on circuit. However, in more modern times, whether by trial at nisi prius or whether in the Supreme Court in King Street, Sydney, they were merely put at the front of the court file, but that was the only document which the judge at nisi prius had when he was trying the matter with a jury. The jury then returned an answer yes or no, though if there was a damages trial and the plaintiff succeeded it also fixed the amount of damages.

The Supreme Court of New South Wales by the Third Charter of Justice was given all the power of the Court of Chancery, as well as the Common Law courts and the Ecclesiastical courts.

In the 1840s provision was made for a primary judge in Equity. It must be remembered that at that stage when there is a reference to the Supreme Court it meant the Supreme Court in Banc. A single judge could not sit by himself, except as a Commissioner of nisi prius, oyer and terminer or general gaol delivery. However, the Act was amended so that the power of all the judges sitting in Banc was delegated to the primary judge in Equity, later called the Chief Judge in Equity, to deal with the Equity suits that arose within the court.

Thus from 1842 onwards trials of fact at Common Law were dealt with by juries at a hearing presided over by a Commissioner of nisi prius, though in New South Wales invariably this was a judge, and trials in Equity were dealt with under the fact-finding power of the Full Court by its delegate the primary judge.

Although in New South Wales the Commissioner at Common Law was a judge who sat with a jury, on the famous occasion when Milner Stephen, J died in chambers in 1939 after the jury had retired, another judge, Pitt AJ, was able to take the jury's verdict without there being any mistrial. This showed that the judge was really not part of the fact-finding process at all.

When the procedure in Equity was consolidated into the Equity Act of 1901, as a result of the activities of the Commissioners for Law Reform in the last five years of the nineteenth century, the rule was set out in s 51 of the Equity Act 1901, which was the consolidation of previous legislation, that:

"The evidence to be used at the hearing of any suit (in Equity) shall be taken before the judge sitting in open court without a jury."

However, there was power for the judge to order a jury.

As far as my researches go, no jury has actually sat in Equity since 1904 and that a jury actually sat then I have on purely anecdotal evidence.

In **Goodsell v National Bank of Australasia** (1889) 6 WN (NSW) 55 the then Chief Judge in Equity ordered that there be a trial by jury and seemed to consider that if there was a question of fact of sufficient importance it was appropriate to order trial by jury. However, in **Sullivan v The English Scottish and Australian Bank Ltd** (1904) 5 SR (NSW) 52 Walker J considered that that case was not sufficiently

reported to have him convinced that the then Chief Judge was laying down some general rule and although Walker J's inclination was to let the jury have the responsibility of deciding the case rather than himself, he thought that where the application for jury was opposed the party applying to make out a case that a jury should be granted in Equity bore the onus and he had to show some good reason why the normal form of trial should be departed from. As far as my researches go that was the last time when the matter was actually considered in Equity in New South Wales.

So far as England is concerned, the last reported example which I can find of a trial by jury in Equity is **Evan v Merthyr Tydfil UDC** [1899] 1 Ch 241. In that case Romer J had ordered that an issue of fact, which was specified in his order, be tried before a special jury at Swansea. The matter does seem to involve the right of commons in that part of Wales. Why his Lordship ordered a trial by jury in that case is not reported.

It must also be remembered that prior to 1875 or a little before that date the fact-finding process in Equity was extremely limited. Mostly the evidence was in a written form, which was presented to the Lord Chancellor or the Master of the Rolls by a Six Clerk having put together the affidavits from statements of the witnesses. The Six Clerks seemed to be a sort of combination of Registrar in Equity and solicitors. There was no cross-examination and so the procedure was just not suitable for deciding contested issues of fact. Thus, the practice grew up in Equity of having the parties put up a feigned issue at Common Law.

According to **Blackstone** (1857 ed vol 3 p 523), feigned issues were borrowed from the sponsio judicialis of the Roman Law. Feigned issues were employed not only to try disputed facts arising in equity proceedings, but also, by consent, to determine other disputed questions of fact without the formality of pleading.

The procedure for trying a feigned issue was that the plaintiff would bring an action at law and declare, fictitiously, that he had a wager of [sterling]5 with the defendant that the fact that needed to be proved was true. He averred that this fact was true so that he was entitled to the [sterling]5. By his plea, the defendant admitted the feigned wager but traversed the allegation of fact. Issue would thus be joined and a question framed which the jury could answer yes or no. Feigned issues were previously dealt with under the General Legal Procedure Act, 1902, and, when that Act was repealed by the Supreme Court Act 1970, feigned issues were considered to be abolished.

However, in New South Wales there has never been any need for a special procedure in Equity because the primary judge has never been limited by the fact-finding machinations of the Six Clerks. We never had the equivalent of the Six Clerks or the Sixty Clerks in New South Wales and judges in Equity have been able to hear and decide matters of fact just as any other judge. The need, accordingly, for questions of fact to go out to Common Law juries was very much more limited in New South Wales than it was in England last century. When it did happen, it happened by way of feigned issue.

Indeed, in New South Wales the feigned issue was, so far as reported cases show, used not for fact-finding in equity, but to try facts where a statute referred a problem to the Full Court or where facts needed to be found for the Full Court to consider whether it would make a prerogative writ absolute. See **Re Rundle** (1894) 11 WN

(NSW) 159 (Stamp Duties Act); **Ex parte Saunders** (1900) 16 WN (NSW) 166 (Real Property Act); **Ex parte Keegan** (1907) 24 WN (NSW) 72 (Public Works Act) and **Ex parte Rae; Re Hartigan** (1940) 40 SR (NSW) 438 (Mandamus under Government Railways Act).

One of the reasons why the feigned issue was adopted was that it is necessary to isolate questions for a jury. At Common Law, as I have said, that question was isolated by the procedure laid down in the rules we got from England, being the rules of Hilary term 1834. The feigned issue procedure picked up those rules or else special orders could be made under s 11 of the General Law Procedure Act.

Accordingly, I do not really consider that Mr McQuillen's excursus into history assists him because since 1842 these questions have ordinarily been heard by a judge sitting alone in Equity or in the Equity Division.

Looking at the Statute, the general rule is that there should be trial by judge alone. In Common Law there is an exception where fraud is involved, but the Statute limits this to Common Law trials. The flavour of the Statute is there however.

I consider that the submission of Mr McClellan QC, who appeared with Mr McGovern for the first and second defendants, is correct, that that provision is there not for the benefit of plaintiffs who attack someone else's character, but rather for the benefit of a person whose character is attacked to have a chance of vindication by a jury of his or her peers on the subject matter of that attack. That is why s 88 deals with a seemingly heterogeneous list of fraud, defamation, false imprisonment and seduction. The provision as to breach of promise of marriage has been superseded by Commonwealth legislation prohibiting such actions.

Mr McClellan QC says that there is no discretion to order trial by jury in Equity. I reject that submission. However, it seems to me that when considering whether to exercise the discretion the judge takes into account the fact that the normal method of trial is by judge alone, and he also takes into account the sort of factors mentioned by Mr Russell, for the fourth defendant, namely, length of trial by judge compared with trial by jury, the cost, the fact that commercial factual matters are involved and that the factual matters are complex.

Mr McClellan QC's response to that is that judges at Common Law and in criminal trials are constantly directing juries on complex matters of fact and that the **Pambula Hospital** case shows that these are really irrelevant considerations.

I know that judges do have to direct juries on complex matters, but I think the general feeling in the legal profession is that despite the quality of the judges who do that direction, the trial by jury of such issues is second best.

Accordingly, I do not consider that there is sufficient reason to grant trial by jury and the notice of motion filed by the plaintiff on 23 August 1996 is dismissed with costs.

I now have to consider what directions should be made to get the trial ready for hearing.

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 6 To this my affidavit referred to in Paragraph 23 of the said Affidavit

Deponent

A Justice of the Peace

MH6

Royal Great Seal of the Commonwealth of Australia	Royal Great Seal of Australia
	

The First Royal Great Seal of the Commonwealth was in this design and was replaced by another introduced in 1932. It has a Royal Badge of Arms adorned by the Crown, There is no Crown on the 1973 Great Seal so it is not a Royal Seal, and merely a Corporate Seal of no legal force. We only owe allegiance to the Crown, not the Flag or the Republic or any State or Federal Government or a seal the same as a beer bottle has. The two subsequent Great Seals are forged and uttered by an entity that is in law by S 64 Judiciary Act 1903 a subject of the Queen of the Constitution and are utterly illegal, as made. Those forged unauthorised Great Seals have oppressed the people of Australia since their utterance. By that Original Great Seal every State was under the Commonwealth Crown all six of them and the Commonwealth. They have had no power to unilaterally declare independence from the Commonwealth Crown except under Forged Seals used illegally.

The Crown as the Fount of Justice

No less an authority than Blackstone, probably revered more in the United States than in the United Kingdom or Australia explains that "justice is not derived from the king, as from his free gift; but he is the steward of the public…He is not the spring, but the reservoir…"

In England, from time immemorial, this authority has been exercised by the king or his substitutes. The Crown has acted as the fountain of justice in Australia from the time of the first settlement in 1788. Since the Glorious Revolution the judges are no longer appointed 'at pleasure', rather they enjoy tenure during good behaviour as determined by the parliament. This, and the fact they are appointed by the Crown, assures their independence. This independence preceded the grant of responsible government to the Australian colonies in the nineteenth century. Appointment of the judges is by the Crown - they are "Her Majesty's Judges", they are not the judges of the government in power at the time of their appointment. By their allegiance to their sovereign - even if they inappropriately and unwisely declare themselves to be republican, they cannot unilaterally dispense with their allegiance - their loyalty is clearly and publicly to the Crown as steward or trustee for the people.
I also cite A V Dicey who said this:

> "... every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The Reports abound with cases in which officials have been brought before the courts, and made, in their personal capacity, liable to punishment, or to the payment of damages, for acts done in their official character but in excess of their lawful authority. [Appointed government officials and politicians, alike] ... and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorise as is any private and unofficial person." (*Law of the Constitution*.)

We all want freedom. There is no freedom but under the Crown. When in 1973 the Queen allowed the Great Seal to be forged without a Crown on it, and all the States under the One Crown, we lost our freedom and the justice system became a closed shop run by lawyers and you are just pawns in the game.

We have no one but the Crown to turn to for justice. Now the Attorney General has admitted the Great Seal has been false since 1973, and was tampered with in 1933, the Crown has been abolished by every State including the Commonwealth State, and we have no freedom. The vaccines are killing us off gently, 500 already and climbing. Without the Crown to protect us we are at the mercy of Doctors who don't care about human life at all.

No Crown no justice, Just the legal profession preaching the LAW as the State Religion. No Freedom, no justice, no hope in the Commonwealth. We are run by a bunch of no hopers. Prime Minister Morrison is a No Hoper, The Premiers are No Hopers, the Chief Medical Officers are no hopers, and without the Commonwealth Crown and all it stands for, we have no hope at all.

AFFIDAVIT COVER SHEET

The paper writing attached hereto is Exhibit MH 7 To this my affidavit referred to in Paragraph 24 of the said Affidavit

Deponent

A Justice of the Peace

MH7

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER:

Plaintiff:	Michael Thomas: Holt
	AND
First Defendant:	*State of Queensland*
	AND
Second Defendant	*Commonwealth of Australia*

CLAIM

The plaintiff claims:

1. An Order that the State of Queensland and Commonwealth of Australia strictly prove the existence of a Covid19 virus by a Laboratory qualified to isolate it, to warrant the imposition of Public Health Orders and the ability of the State of Queensland as an entity described in S 64 Judiciary Act 1903 to contradict the Statutory Commands of the Parliament of the Commonwealth in breach of the Commonwealth of Australia Constitution Act 1900 and Constitution.

2. That in the event that neither can strictly prove a separate existence for the Covid19 alleged virus, from the common flu, by a reputable laboratory, that the prescribed penalty under S 4B Crimes Act 1914 (Cth) and S 42 and 43 Acts Interpretation Act 1954 (Q) be awarded as a liquidated penalty against each of them.

3. When Miranda Devine on the 1st August 2020 drew the attention of the public to the cure protocol of Professor Thomas Barody of Five Dock Sydney in the Daily Telegraph, and Chris Kenny on Sky News on the 7th August 2020 confirmed it, it is criminal negligence to push an unproven vaccine and lock down the civilian population.

The plaintiff makes this claim in reliance on the facts alleged in the attached Statement of Claim.

ISSUED WITH THE AUTHORITY OF SUPREME COURT OF QUEENSLAND

And filed in the *Brisbane* Registry on 18th October 2021

Registrar:

To the defendant: TAKE NOTICE that you are being sued by the plaintiff in the Court. If you intend to dispute this claim or wish to raise any counterclaim against the plaintiff, you must within 28 days of the service upon you of this claim file a Notice of Intention to Defend in this Registry. If you do not comply with this requirement judgment may be given against you for the relief claimed and costs without further notice to you. The Notice should be in Form 6 to the Uniform Civil Procedure Rules. You must serve a sealed copy of it at the plaintiff's address for service shown in this claim as soon as possible.

Address of Registry: Queen Street, Brisbane 4000

[

If you assert that this Court does not have jurisdiction in this matter or assert any irregularity you must file a Conditional Notice of Intention to Defend in Form 7 under Rule 144, and apply for an order under Rule 16 within 14 days of filing that Notice.
If you object that these proceedings have not been commenced in the correct district of the Court, that objection must be included in your Notice of Intention to Defend.

PARTICULARS OF THE PLAINTIFF:

Name: Michael Thomas: Holt
Plaintiff's residential or business address: Address Withheld, Maroochydore, Queensland 4558
~~Plaintiff's solicitors name:~~
~~and firm name:~~
~~Solicitor's business address:~~

Address for service: Address Withheld, Maroochydore, Queensland 4558
Dx *(if any)*:
Telephone: XXXXXXXXXXXXX
Fax:
E-mail address *(if any)*: mikeh@commonlaw.earth

plaintiff's address for service: Address Withheld, Maroochydore, Queensland 4558
plaintiff's telephone number or contact number: XXXXXXXX
plaintiff's fax number *(if any)*:
plaintiff's e-mail address *(if any)*] mikeh@commonlaw.earth

Signed:

Description*:* Commonwealth Public Official by virtue of S 13 Crimes Act 1914 (Cth)

Dated: 18 October 2021

This Claim is to be served on: *State of Queensland*
of: State Law Building
50 Ann Street
Brisbane QLD 4000

and on:
Attorney-General's Department
Level 5, Commonwealth Law Courts
119 North Quay
Brisbane QLD 4000

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER:

Plaintiff:	Michael Thomas: Holt
	AND
First Defendant:	*State of Queensland*
	AND
Second Defendant	*Commonwealth of Australia*

STATEMENT OF CLAIM

This claim in this proceeding is made in reliance on the following facts:

1. In 1933 and again in 1973 the Commonwealth forged a new Great Seal of Australia and in reliance upon that Seal made in 1973, has created an entity that cannot be described as the Commonwealth of Australia, and the State of Queensland has also been altered so as no longer able to describe itself as a State under the Constitution.

2. The Original Royal Great Seal had a Crown and the six State Badges under it, reflecting the superiority of the Commonwealth over the States, and the fact the State was also under the Commonwealth Crown in every way.

3. Queensland is unique among the States insofar as its Supreme Court by S 11 Supreme Court of Queensland Act 1991 saves all the laws in force in Queensland, declared in the Supreme Court Act 1867, and has not used S 9 Australia Act 1986, to create a Star Chamber Court staffed by quasi-Priests, whose allegiance is to the State and not the Commonwealth Crown as required by law.

4. Each one of the Supreme Court Justices in the State of Queensland must take the following oath from the Oaths Act 1867. S 5A I,…… , do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, as lawful Sovereign of the United Kingdom, Australia, and her other Realms and Territories, and to Her Heirs and Successors, according to law.
   So Help Me God!

5. By swearing allegiance to Her Majesty Elizabeth the Second as Our Sovereign Lady, the said Justices are bound, as She is, by the Condition Precedent upon Her assumption of the Commonwealth Crown, that the Statute 1 Will & Mary C 6 (Coronation Oath) (1688) must be applied, and upon acceptance of that obligation, the jurisdiction of the Supreme Court in Queensland is exactly the same as the Federal Supreme Court to be called the High Court, and by S 118 Constitution its orders run throughout the Commonwealth of Australia, when it constitutes itself in obedience to that Oath.

6. That Oath preserves the common law as in force in 1867, and the Conditions under which Her Majesty Elizabeth the Second must govern are set out in the Statute 1 Will & Mary C 6 (Coronation Oath) (1688), and include this clause: "Will you to the utmost of your power maintaine the laws of God the true profession of the Gospell and the Protestant reformed religion established by law? and will you preserve to the bishops and clergy of this realme and to the churches committed to their charge all such rights and privileges as by law doe or shall appertaine unto them or any of them. King and Queen All this I promise to doe.

7. A Holy Bible version of the King James Version of the Holy Bible published by both Collins and the Cambridge University Press contains a Seal on the Fly Leaf; BY HIS MAJESTYS SPECIAL COMMAND APPOINTED TO BE READ IN CHURCHES Authorised King James Version with the Royal Seal and Printed by authority. Collins since 1819.

8. This seal incorporates the Holy Bible into law, and combined with the Royal Great Seal, delivers the Holy Bible as a Contract of Record binding on the courts, judges and people of every State notwithstanding anything in the laws of any State, by S 2 and 5 Commonwealth of Australia Constitution Act 1900.

9. The Magna Carta was made official law in 1295, and incorporates Clauses 14 and 29. Clause 14 applies penalties for breaches of the law, and clause 29 incorporates the principles of The Book of Matthew verses 15-29, and vests the power to adjudge in the Holy Spirit or Holy Ghost. Luke 12 verses 10-12 make it a mortal sin, to sit without a jury, unless consent in writing is first had.

10. These laws were declared in the Supreme Court Act 1995 as Sections 51 and 259 and although repealed, the laws from which they were declared, are retained and saved, by s 11 Supreme Court of Queensland Act 1991. This makes Queensland unique among the States of the Commonwealth.

11. On the 1st August 2020 Miranda Devine in the Daily Telegraph in Sydney drew the attention of the general public to a cure for Covid19 developed by Professor Thomas Barody of Five Dock Sydney, and on the 7th August 2020 Chris Kenny on Sky News Australia broadcast an interview with Professor Thomas Barody giving notice to the whole country of a cure

12. In 1914, the Crimes Act 1914 (Cth) was enacted and in it is a Part III which was enacted to ensure the integrity of the courts declared in S 79 Constitution, and in 2021, the Federal Court of Australia which is a Court of the Commonwealth, has been asked numerous times, to issue ex officio indictments using forms promulgated by the 36 judges of that Court in 2016 in the Federal Court (Criminal Proceedings) Rules 2016.

13. By S 18X Federal Court of Australia Act 1976 matters arising from misfeasance by administrative officers of the Federal Court of Australia is the responsibility of the Commonwealth, the Commonwealth is a necessary party, and since the Constitution comprises three acts, the Commonwealth of Australia Constitution Act 1900 (United Kingdom) and Acts Interpretation Act 1901 (Cth) and Judiciary Act 1903 by S 64 Judiciary Act 1903 both the State of Queensland and Commonwealth are proper defendants.

14. By S 56 and 58 Judiciary Act 1903 the Supreme Court of any State is granted power to adjudicate any claim against the Commonwealth or a State arising under Federal Jurisdiction when the offence occurred within that State.

15. On 20th September 2021 the plaintiff lodged in the Federal Court of Australia Brisbane Registry a properly formatted ex officio indictment, in Form CP14 and CP15 Federal Court (Criminal Proceedings) Rules 2016 alleging that the State of Queensland was not entitled to lock down the State and confine its inhabitants in their homes, and mandate vaccinations with an experimental vaccine with proven fatal side effects in some cases.

16. The alleged Statutes offended were S 268:12 Criminal Code Act 1995 (CTH) Imprisonment or other severe deprivation of physical liberty, S 268:20 Criminal Code Act 1995 (CTH) persecution arising out of the first charge, and S 43 Crimes Act 1914 (Cth) attempting to pervert, obstruct defeat or delay the course of justice in respect of the judicial power of the Commonwealth by imposing arbitrary penalties without prior judicial order.

17. In addition, an offence against S 44 Crimes Act 1914 (Cth) was committed by the administrative officer in the Federal Court of Australia at Brisbane once the crime was made known to him/her.

18. In the Acts Interpretation Act 1954 (Q) S 42 and 43 any person is given the right to commence a proceeding for a penalty, and the penalty is stated as being appropriated in the manner prescribed in section 43.

19. S 43 (2) The court that imposes the penalty, or makes the forfeiture order, may order that not more than half of the amount recovered be paid to the party prosecuting.

The plaintiff claims the following relief:

1. By S 4B Crimes Act 1914 (Cth) the following formula is provided to calculate the liquidated penalty that accrues for a breach of the criminal law by a corporation.

2. The formula is as follows: The term of imprisonment expressed in years is converted to months, so 17 years in S 268:12 Criminal Code Act 1995 (CTH) is converted to 204 months. Each month converts to five penalty units, so the penalty is 1020 penalty units and a Commonwealth Penalty Unit is $210.00. That is $214,200 but since both defendants are Bodies Corporate, the prescribed penalty is multiplied by five times, and equals $1,071,000 for the two Criminal Code offences, and the sum of $126,000 multiplied by five for the offence against S 43 Crimes Act 1914 (Cth) for an individual, and $630, 000 for a Corporate Offender, so that is what the State of Queensland owes in total, $2,772,000 and the Commonwealth owes that plus a further 3 years for the offence against S 44 Crimes Act 1914 (Cth). 36 months by five units, by $210,000 multiplied by five as a corporate offender. The sum of $189,000.

3. Since the Penalty accrues daily by S 4K Crimes Act 1914 (Cth) and the plaintiff elects jury trial, the time for pleading should be abridged to minimise the liquidated damages accruing while awaiting trial if the defendants plead not guilty.

4. The Claim against the Commonwealth is $2,961,000 and the claim against the State of Queensland is $2,772,000

   The plaintiff elects jury trial.

Signed:…….

Description: Commonwealth Public Official by virtue of S 13 Crimes Act 1914 (Cth)

NOTICE AS TO DEFENCE

Your defence must be attached to your notice of intention to defend.

NOTICE UNDER RULE 150(3)[i]

The plaintiff claims:

$.2,961,000 against the Commonwealth, and $2,772,000 from the State of Queensland as corporate Offenders.

The proceeding ends if you pay those amounts before the time for filing your notice of intention to defend ends. If you are in default by not filing a notice of intention to defend within the time allowed, the plaintiff is entitled to claim additional costs of $....., costs of entering judgment in default and the same amount every day the offences continue by S4K Crimes Act 1914 (Cth) .

[i] This notice is to be included if the plaintiff's claim is for a debt or liquidated demand only.