Originating application for judicial review

No of 2023

Federal Court of Australia

District Registry, Queensland District Registry

Division: Administrative Decisions (JUDICIAL REVIEW) Act 1977

Michael Thomas Holt

Applicant

XXXXXXXXXXXXX

First Respondent

AFFIDAVIT

I, Michael Thomas Holt of [redacted], Queensland 4[redacted] swear and say as follows.

1. On the 25th May 2023 I lodged an APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT with the High Court and a supporting duly sworn Affidavit. **Exhibit MH 1.**

2. On almost all occasions that the Judicial Power of the Commonwealth has been used against me, I have not been served personally, or been prevented from presenting evidence because the judge and registrar deemed my application vexatious, citing Rule 6.07.2 of the High Court Rules 2004.

3. The Application was supported by an Affidavit informing the High Court of a number of serious breaches by the State of Victoria and its employees, and some citizens thereof, of the Laws of the Commonwealth, affecting me personally. The Affidavit contained 9 sworn allegations before

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

a Justice of the Peace, of offences against the Laws of the Commonwealth, and by the definition of Indictment in S 4A Crimes Act 1914,
and by S 13 Crimes Act 1914, I was exercising a Royal Prerogative delegated to me by the Parliament of the Commonwealth, to put in train the penal power, of the judicial power of the Commonwealth, exercisable by the Federal Supreme Court to be called the High Court under the Common law, as declared by S 15F Crimes Act 1914 and S 80 Judiciary Act 1903.

4. By S 75 (iii) Constitution, I was acting for the Crown in right of the Commonwealth, as an agent of the Commonwealth, to enforce the laws made for the benefit of the commonwealth, by the Parliament of the Commonwealth.

5. On the 02nd May 2023 I received advice from a [redacted] Deputy Registrar, advice that as a Clerk, he had made a judgment to refer the matter to a Judge, one Justice [redacted], and that he said the Justice had directed that it be rejected and unless I, Michael Thomas Holt obtained the permission of a Justice first it not be filed and issued.

6. Deputy Registrar [redacted], sitting under S 16 Judiciary Act 1903 did not give me a chance to request the matter be heard in open court as required by S 16. But on the application of either party the Justice may order the application to be adjourned into Court and heard in open Court. That requirement is to comply with the Maxim: Audi alteram partem: In administrative law the 'hearing rule' is fundamentally based on the maxim of audi alteram partem. A failure to inform a person of a case being made against them and an opportunity to be heard may result in the matter being dismissed or decision of a government body rendered void. In the High Court a transcript is always publicly available from any hearing in Open Court.

7. The High Court Rules 2004 contain a Rule of Court Rule 6.07, 1, 2, and 3 in the following terms; Refusal to issue or file a document
6.07.1 If a writ, application, summons, affidavit or other document (the ***document***) appears to a Registrar on its face to be an abuse of the process of the Court, to be frivolous or vexatious or to fall outside the jurisdiction of the Court, the Registrar may seek the direction of a Justice.
6.07.2 The Justice may direct the Registrar to issue or file the document, or to refuse to issue or file

the document, without the leave of a Justice first had and obtained by the party seeking to issue or file the document.

6.07.3 An application for leave for the Registrar to issue, or for leave to file, a document that is subject to the direction of a Justice under subrule 6.07.2:

(a) must be in Form 31; and

(b) must not be served on any person, unless the Court or a Justice otherwise orders.

8. This Rule, which vests in a Deputy Registrar a Judicial function, a function that by S 79 Constitution, cannot be delegated by any Judge, or Committee of Justices to a single individual, just as the Parliament of the Commonwealth cannot delegate its Judicial Power of the Commonwealth to any court that does not have judges (plural and uncapitalised) as the tribunal of fact is outside the legislative competence of the Justices of the High Court and to not serve Notice of it, giving the respondent a chance to be heard denies the applicant natural justice.

9. ACTS INTERPRETATION ACT 1901 - SECT 25D Content of statements of **reasons** for decisions

Where an Act requires a tribunal, body or person making a decision to give written **reasons** for the decision, whether the expression "**reasons** ", "grounds" or any other expression is used, the instrument giving the **reasons** shall also set out the findings on material questions of fact and refer to the evidence or other material on which those findings were based. HIGH COURT RULES 2004 - RULE 6.03 Publication of written **reasons** for judgment. When a judgment is given in a proceeding, either by a Full Court or a single Justice, and the opinion of a Justice is reduced to writing, it is sufficient to state orally the opinion of the Justice without stating the **reasons** for the opinion, but, subject to rules 13.04 and 25.09.2, the written opinion must be published by delivering it to the Registrar or associate in open Court.

10. HIGH COURT RULES 2004 - RULE 13.04 Orders other than in open court in relation to applications: A Justice may make orders and may publish reasons for a decision other than in open court in relation to an application.

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

11. Determination of application 25.09.1 The Court or a Justice may dismiss an application, without listing the application for hearing, on the ground that the application does not disclose an arguable basis for the relief sought or is an abuse of the process of the Court.
25.09.2 A Justice may make an order under rule 25.09.1, and may publish reasons for the decision, other than in open court. Note: For the power of a Justice sitting in Chambers to exercise the jurisdiction of the Court, see section 16 of the *Judiciary Act 1903*
25.09.3 Without limiting rule 28.01, on hearing an application the Court or a Justice may
(a) if the plaintiff fails to attend the hearing, dismiss the application on that ground or make any other appropriate order; or
(b) if the application does not disclose an arguable basis for the relief sought or is an abuse of the process of the Court, dismiss the application on that ground; or
(c) finally determine the whole or a part of the application; or
(d) refer the whole or a part of the application for further hearing by a Full Court.

12. 28.01.3 The Court or a Justice may make an order under rule 28.01.1 or 28.01.2: (Summary dismissal)
(a) on application by a defendant or respondent on notice; or
(b) of the Court's or the Justice's own motion after notice has been given by the Registrar to each plaintiff or applicant.

13. Under Rule 28.01.3 the Justice gave judgment in effect summarily dismissing the Application, without Notice to the plaintiff or Reasons for Judgment. By the High Court Rules 2004 this is irregular and by S 80 Judiciary Act 1903 certain Common Law maxims ought to apply.

14. Maxims in law are somewhat like axioms in geometry. 1 Bl. Com. 68. They are principles and authorities, and part of the general customs or common law of the land; and are of the same strength as acts of parliament, when the judges have determined what is a maxim; which belongs to the judges and not the jury. Terms do Ley; Doct. & Stud. Dial. 1, c. 8. Maxims of the law are holden for law, and all other cases that may be applied to them shall be taken for granted. 1 Inst. 11. 67; 4

Rep. See 1 Com. c. 68; Plowd. 27, b.

15. The application of the maxim to the case before the court, is generally the only difficulty. The true method of making the application is to ascertain how the maxim arose, and to consider whether the case to which it is applied is of the same character, or whether it is an exception to an apparently general rule.

16. The alterations of any of the maxims of the common law are dangerous. 2 Inst.

17. Error scribentis nocere non debet. An error made by a clerk ought not to injure; a clerical error may be corrected. I believe the clerk called a Deputy Registrar made an error of law by adjudging that my application was to be decided summarily by a Justice without Notice to me.

18. Forma non observata, inferiur adnullatio actus. When form is not observed a nullity of the act is inferred. 12 Co. 7. Rule 28.01.2 was Not observed.

19. Rules ought to be of utility, and not be applied to give impunity to an offender. Impunitas continuum affectum tribuit delinquenti. Impunity offers a continual bait to a delinquent. 4 Co. 45.

20. Interest reipublicae ne maleficia remaneant impunita. It concerns the commonwealth that crimes do not remain unpunished. Jenk. Cent. 30, 31. In the Affidavit sworn on Oath, submitted to the Federal Supreme Court to be called the High Court, it the High Court was informed of the existence of a terrible situation existing in the State of Victoria and such information, amounted to an indictment of the judicature in this State.

21. Judici officium suum excedenti non paretur. To a judge who exceeds his office or jurisdiction no obedience is due. Jenk. Cent. 139. and Judicium Ö non suo judice datum nullius est momenti. A judgment given by an improper judge is of no moment. 11 Co. 76.

22. Justitia nemine neganda est. Justice is not to be denied. Jenk. Cent. 178.

23. In the *Communist Party Case*, Fullagar J said it was 'an elementary rule of constitutional law' that 'a stream cannot rise higher than its source'. Like Parliament, the High Court must comply with the demands of the Constitution.

24. Reason is called the soul of the law; for when the reason ceases, the law itself ceases. Co. Litt. 97, 183; 1 Bl. Com. 70; 7 Toull. n. 566. A decision without adequate Reasons for Judgment upon which a person may appeal, is an offence against Article 14 of the International Covenant on Civil and Political Rights and S 268:12 Criminal Code Act 1995. Specifically:

25. Officium nemini debet esse damnosum. An office ought to be injurious to no one. The Office of Deputy Registrar ought not to be used to benefit malefactors,

26. Omnis conclusio boni et veri judicii sequitur ex bonis et veris praemissis et dictis juratorem. Every conclusion of a good and true judgment arises from good and true premises, and the sayings of jurors. Co. Litt. 226.

27. Once a fraud, always a fraud. 13 Vin. Ab. 539.

28. Optima est lex, quae minimum relinquit arbitrio judicis. That is the best system of law which confides as little as possible to the discretion of the judge. Bac. De Aug. Sci. Aph. 46.

29. Qui parcit nocentibus, innocentibus punit. He who spares the guilty, punishes the innocent.

30. Qusquis est qui velit juris consultus haberi, continuet studium, velit a quocunque doceri. Whoever wishes to be a lawyer, let him continually study, and desire to be taught everything.

31. Ubicunque est injuria, ibi damnum sequitur. Wherever there is a wrong, there damages follow. 10 Co. 116.

32. In Pennsylvania, the judges are required in giving their opinions, to give the reasons upon which they are founded. A similar law exists in France, which Toullier says is one of profound wisdom, because, he says, les arrets ne sont plus comme autre fois des oracles muets qui commandent une obeissance passive; leur autorite irrefragable pour ou contre ceux qui les ont obtenus, devient soumise a la censure de la raison, quand on pretend les eriger en re-gles a suivre en d'autres cas semblables, vol. 6, n. 301; judgments are not as formerly silent oracles which require a passive obedience; their irrefragable (
not able to be refuted or disproved; indisputable) authority, for or against those who have obtained them, is submitted to the censure of reason, when it is pretended to set them up as rules to be observed in other similar cases. But see what Duncan J. says in 14 S. & R. 240.

33. Jago v District Court of NSW [1989] HCA 46; (1989) 168 CLR 23 (12 October 1989) Mason CJ. at 20. The test of fairness which must be applied involves a balancing process, for the interests of the accused cannot be considered in isolation without regard to the community's right to expect that persons charged with criminal offences are brought to trial: see Barton, at pp 102, 106; Sang, at p 437; Carver v. Attorney-General (NSW) (1987) 29 A Crim R 24, at pp 31, 32. At the same time, it should not be overlooked that the community expects trials to be fair and to take place within a reasonable time after a person has been charged. The factors which need to be taken into account in deciding whether a permanent stay is needed in order to vindicate the accused's right to be protected against unfairness in the course of criminal proceedings cannot be precisely defined in a way which will cover every case. But they will generally include such matters as the length of the delay, the reasons for the delay, the accused's responsibility for asserting his rights and, of course, the prejudice suffered by the accused: Barker v. Wingo [1972] USSC 146; (1972) 407 US 514; Bell v. D.P.P. (1985) AC 937, as explained in Watson, and Gorman v. Fitzpatrick (1987) 32 A Crim R 330. In any event, a permanent stay should be ordered only in an extreme case and the making of such an order on the basis of delay alone will accordingly be very rare: Re Cooney (1987) 31 A

Crim R 256, at pp 263-264.

Brennan J, at 9

9. In Reg. v. Humphrys (1977) AC 1, at p 26, Viscount Dilhorne said in reference to a supposed judicial power to intervene in the institution of a prosecution: "A judge must keep out of the arena. He should not have or appear to have any responsibility for the institution of a prosecution. The functions of prosecutors and of judges must not be blurred. If a judge has power to decline to hear a case because he does not think it should be brought, then it soon may be thought that the cases he allows to proceed are cases brought with his consent or approval."

And in Barton v. The Queen [1980] HCA 48; (1980) 147 CLR 75, at pp 94-95, Gibbs A.C.J. and Mason J. said: "It has generally been considered to be
undesirable that the court, whose ultimate function it is to determine the accused's guilt or innocence, should become too closely involved in the question whether a prosecution should be commenced . though it may be that in exercising its power to prevent an abuse of process the court will on rare occasions be required to consider whether a prosecution should be permitted to continue." In my opinion, the District Court has no jurisdiction to prevent the presentation of an indictment.

At 31: The right to prosecute and the right to lead admissible evidence in
support of its case are not subject to judicial control. Of course, when the
prosecutor reaches court, he becomes subject to the directions as to the conduct of the trial by the judge, whose duty it then is to see that the accused has a fair trial according to law. What does 'fair' mean in this context?
It relates to the process of trial."

34. BARTON v. THE QUEEN [1980] HCA 48; (1980) 147 CLR 75

Gibbs and Mason: JJ.

2. The two ex officio informations have been called "indictments" because s . 4 of the Crimes Act, 1900 (N.S.W.), as amended, defines "indictment" so as to include "any information presented or filed as provided by law for the prosecution of offences". As we shall see, s. 5 of the Australian Courts Act 1828 (9 Geo. IV c. 83) authorizes the prosecution of criminal offences by information in the name of the Attorney-General. The two indictments have been described as "ex officio" because

in relation to the Harbourside charges there had been committal proceedings before a magistrate but they had not been completed, and because in relation to the Bounty charges committal proceedings had not even commenced. (at p85)

16. His Lordship rejected the argument based on Reg. v. Neilson (1842) Webster's PC, 665 that the Attorney-General's discretion was subject to judicial review by the Lord Chancellor and observed that when the Lord Chancellor "is acting as a Judge in the Court of Chancery, either on the common law or on the equity side, I am not aware of any authority which he has to interfere in matters which depend on the discretionary exercise of the Royal prerogative". (at p90).

Stephen J at 3.

3. The view adopted in Kent's Case, that it was open to a court to review the action of the Attorney-General in filing an ex officio indictment, has been shown by my brothers' joint judgment to be erroneous. That view appears to me to have infected all that his Honour did in that case, vitiating the authority of other aspects of the decision. (at p103)

Murphy J.

3. The Attorney-General is not examinable in any court for alleged absence of good faith or for considering extraneous matters in filing an indictment. In Commonwealth Life Assurance Society Ltd. v. Smith (1938) 59 CLR, at p 539 the majority of the court referred to "a general rule which prevents imputations in one proceeding against the justice of another proceeding already pending or of a judical determination still standing" and cited the statement by Willes J. in Gilding v. Eyre [1861] EngR 793; (1861) 10 CB (NS) 592, at p 604 [1861] EngR 793; (142 ER 584, at p 589) that:

"It is a rule of law, that no one shall be allowed to allege of a still depending suit that it is unjust. This can only be decided by a judicial determination, or other final event of the suit in the regular course of it. That is the reason given in the cases which established the doctrine, that, in actions for a malicious arrest or prosecution, or the like, it is requisite to state in the declaration the determination of the former suit in favour of the plaintiff because want of probable cause cannot otherwise be properly alleged." (at p107)

Aikin J is in full agreement.

Wilson J. at 3

If I may say so with respect, there is much wisdom in these words of Lord Dilhorne in Reg. v. Humphrys (1977) AC, at p 26 :

"A judge must keep out of the arena. He should not have or appear to have any responsibility for the institution of a prosecution. The functions of prosecutors and of judges must not be blurred. If a judge has power to decline to hear a case because he does not think it should be brought, then it soon may be thought that the cases he allows to proceed are cases brought with his consent or approval."

In this regard, Lord Salmon, in the same case, although in vigorous disagreement with Lord Dilhorne in relation to another point, said (1977) AC, at p 46 :

"I respectfully agree .that a judge has not and should not appear to have any responsibility for the institution of prosecutions; nor has he any power to refuse to allow a prosecution to proceed merely because he considers that as a matter of policy, it ought not to have been brought."

36. R v Kidman [1915] HCA 58; (1915) 20 CLR 425 (16 September 1915)
Griffith CJ

It is of the essence of judicial proceedings of a controversial character that there should be a party who seeks to put the tribunal in motion and a party against whom action is sought to be taken. The former is spoken of as the person "at whose suit" the proceeding is taken, and both are spoken of as parties to the proceeding. Bearing this elementary proposition in mind, I turn to sec. 75 (III.) of the Constitution, which enacts that in all matters in which the Commonwealth or a person suing or being sued on behalf of the Commonwealth is a party the High Court shall have original jurisdiction. In my opinion it is a function of the Executive Government of every sovereign State, and therefore of the Government of the Commonwealth, to invoke the aid of the judicial power of the State for any purposes for which it may properly be invoked, which purposes include the punishment of offences committed against its laws. The mode of invoking that aid is by a litigious proceeding which is commonly and properly described in such a context by the word "matter."

It follows in my opinion (1) that the Commonwealth is entitled to invoke the aid of the judicial

power for such a purpose, (2) that the proceeding in which it is invoked is a matter to which the Commonwealth is a party, and (3) that the High Court has jurisdiction to entertain it.

37. S 13 Crimes Act 1914 allows any person to act for the Commonwealth in a criminal matter and S 15F Crimes Act 1914 allows any person to take a civil action for a penalty, which is an effective enforcement of the criminal law without imprisonment. An action to enforce penalties authorised by law, cannot be frivolous, vexatious or an abuse of process and is a legitimate action on behalf of the Commonwealth as it has a pecuniary interest in the penalties sought, either directly or by way of Income Tax.

38. For this reason S 44 Crimes Act 1914, framed in this way is designed to protect the Crown Revenue,

CRIMES ACT 1914 - SECT 44 Compounding offences

(1) A person (the ***first person***) commits an offence if:

(a) the first person:

(i) asks for, receives or obtains any property, or benefit, of any kind for himself or herself or another person; or

(ii) agrees to receive or to obtain any property, or benefit, of any kind for himself or herself or another person; an(b) the first person does so upon an agreement or understanding that the first person will:

(i) compound or conceal an offence; or

(ii) abstain from, discontinue or delay a prosecution for an offence;

or(iii) withhold evidence of an offence; and

(c) the offence referred to in paragraph (b) is an indictable offence against a law of:

(i) the Commonwealth; or

(ii) a Territory Penalty: Imprisonment for 3 years.

(2) Absolute liability applies to the paragraph (1)(c) element of the offence.

Note For absolute liability, see section 6.2 of the *Criminal Code* .

Compound means: A criminal act where a person agrees not to report the occurrence of a crime or not to prosecute a criminal offender in exchange for money or other consideration. It is useless reporting crime in Queensland or Victoria as the authorities are protecting criminals.

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

WITH JUST CAUSE AND WITHOUT VEXATION

……..
Michael Thomas Holt
Deponent

Sworn by the above-named deponent, all rights reserved

At ……..

on …….. before me ……..

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

List of Exhibits

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FEDERAL COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 15372/22

Applicant: *Michael Thomas Holt*

AND

Respondent: *Stuart Young Judicial Registrar High Court Canberra Australian Capital Territory*

CERTIFICATE OF EXHIBIT

Bound and marked **Exhibit MH 1 APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT** is the exhibit to the affidavit of *Michael Thomas Holt* affirmed *8 June 2023.*

…… ……..

Deponent Witness

(*Description of witness*)

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

Exhibit MH 1 APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN: Michael Thomas Holt
Plaintiff
and
[redacted]
First Defendant
and
[redacted]
Commonwealth Department of Public Prosecutions
Second Defendant

APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT

The plaintiff applies for the relief set out in Part I below on the grounds set out in Part II below

Part I: That the proceedings by the Second Defendant against the Plaintiff, a resident of the State of Queensland that were commenced in the Federal Jurisdiction of the County Court of Victoria ignoring Constitution S. 80, be discontinued by Order of the High Court on a writ of prohibition, and appropriate compensation in tort and breach of contract be awarded to the plaintiff, and that the decision by Judge [redacted], who arbitrarily ignored Constitution S 79 and S80 by ordering the arrest in Queensland, and transport and incarceration in the State of Victoria of the Plaintiff and subsequent release on bail be quashed as coram non judice, by a Writ of Certiorari as beyond his jurisdiction absolutely.

Part II: The State of Victoria and the Commonwealth are corporations constituted under the Commonwealth of Australia Constitution Act 1900 and Constitution. The Plaintiff seeks an order from the High Court to prevent the State of Victoria using the Judicial Power of the Commonwealth to prosecute the Plaintiff who cannot be guilty of committing a criminal offence that has a statutory authorisation and when the person acted in good faith. The Plaintiff cites The Criminal Code Act 1995 Section 3.2 - Establishing guilt in respect of offences, which states:

In order for a person to be found guilty of committing an offence the following must be proved:

(a) the existence of such physical elements as are, under the law creating the offence, relevant to establishing guilt;
(b) in respect of each such physical element for which a fault element is required, one of the fault elements for the physical element.

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

Section 80.3 (b) (i) (ii) (iii) (iv) of the Criminal Code Act 1995 Defence for acts done in good faith for pointing out errors or defects with a view to reforming those errors or defects:

(i) the Government of the Commonwealth, a State or a Territory;
(ii) the Constitution;
(iii) legislation of the Commonwealth, a State, a Territory or another country;
(iv) the administration of justice of or in the Commonwealth, a State, a Territory or another country.

c) Justice [redacted], acting as a delegate of the Queen at the time of issuing the suppression order, issued it to justify her departure from the statutory requirements of article 14 of the International Covenant on Civil and Political Rights binding on her and the court over which she was presiding by the above cited Clause 5 of the Constitution.

Part III: If a Defence is entered there is NO REASON why it should not be remitted to the Federal Court of Australia for trial by a jury under S 40 and 41 Federal Court of Australia Act 1976.

Part IV: The plaintiff is married with two daughters, and is a 75-year-old Vietnam Veteran of impeccable standing in the community, with no previous criminal history. The charge brought against him by Second Defendant [redacted], Chief Prosecutor of the Commonwealth Department of Public Prosecutions is a crime prohibited by both S 43 Crimes Act 1914 and S 268:12 Criminal Code Act 1995, and the High Court is charged with ensuring the course of justice is not misused to intimidate and punish without a jury trial, and that the Laws of the Commonwealth, both Statutory and Decisional, which were ignored by Justice [redacted] acting on behalf of the State of Victoria when he ordered the arrest of the Plaintiff, are not ignored by the "courts, judges and people" of every State notwithstanding anything in the laws of any State.

Part V: Under the quiet and sure protection of the KING, a person ought to be safe to conduct business without unlawful interference by a political entity like the State of Victoria and criminal elements employed by the State of Victoria without any moral or honest scruples or intention to obey the law of the land that His Majesty King Charles III has sworn to uphold.

Part VI: It would be immoral to order costs against an individual who only wants the law to be obeyed.

Part VII: 1.) Article 19(2) International Covenant on Civil and Political Rights, the enforcement of which is within the jurisdiction of the High Court which authorises the conduct for which the Plaintiff has been charged.

2.) Constitution Section 75(iii), Section 79, and Section 109 prohibits the State of Victoria and its courts passing legislation directly contradicting a valid Federal Law.

The main authority relied upon to assert that the High Court by S 32 Judiciary Act 1903 (and S 16C Acts Interpretation Act 1900) may deal with all associated matters, is contained in Fencott v Muller

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

(O'Connors Winebar case) [1983] HCA 12, (four judges, (2) Mason, Murphy, Brennan and Dean) at 18 and at 21:

At 18: S 86 of the Act (Trade Practices Act as it was then) provides:
Jurisdiction is conferred on the Court to hear and determine actions, prosecutions, and other prosecutions under this part, and that jurisdiction is exclusive of the jurisdiction of any other court, other than the High Court under S 75 Constitution. (At p 602) and at 21: Though the concept of "matter" may be narrower than that of a "legal proceeding", it is a term of wide import. "The word "matters', Griffith Chief Justice said in South Australia v Victoria [1911] HCA 17 "was in 1900 in common use as the widest term to denote controversies which might come before a Court of Justice". The concept of "matter" as a justifiable controversy, identifiable independently of the proceedings which are brought for its determination and encompassing all claims made within the scope of the controversy, was accepted by a majority of the Court in Philip Morris. Barwick C.J. said (1981) 148 CLR, at p 475: "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.

The claim to equitable relief for passing off was another. The former attracted federal jurisdiction: the latter, not being disparate and independent of the former, was part of the whole matter between the parties and thus within the accrued federal jurisdiction. Thus, it seems to me that the federal jurisdiction attracted by the claim for misleading and deceptive conduct extends to the resolution of the entire matter between the parties, which includes the claim for passing off, not merely as an associated claim but as part of the entirety of the matter between the parties in relation to which federal jurisdiction has been attracted." (At p604).

The second authority relied upon is contained in Parisienne Basket Shoes Pty Ltd v Whyte [1938] HCA 7 per Dixon J, (Sir Owen Dixon) it was said: "But, if there be want of jurisdiction, then the matter is *coram non judice*. It is as if there were no judge and the proceedings are as nothing. They are void, not voidable (Cp. *The Case of the Marshalsea*[42])." [1572] EngR 412; (1612) 10 Co. Rep. 68 b, at pp. 76 a, 76 b; [1572] EngR 412; 77 E.R. 1027, at pp. 1038-1041. It says: When a Court has jurisdiction of the cause, and proceeds inverso in dine or erroneously, no action lies against the party who sues, or the officer or minister of the Court, who executes the precept or process of the Court but when the Court has no jurisdiction of the cause, the whole proceeding is coram non judice, and an action will lie against them, without regard of the precept or process. My argument in this case is that nowhere in the Bankruptcy Act 1966 is jurisdiction conferred upon a Judicial Registrar to make a Sequestration Order. It is NOT in S 27, NOT in S 30, except in part 5, which may be unconstitutional, and NOT in S 31. NOT in S 52, and it would appear that by S 34AB (1) (b) Acts Interpretation Act 1900 the Judges delegated the power of the Parliament of the Commonwealth in bankruptcy, by S 51 Placitum (xvii) Constitution cannot be re-delegated by Rules of Court to a Judicial Registrar.

The third authority In this respect either the decision of R v Davison [1954] HCA 46 ought to be confirmed or overruled by a majority of the High Court. See paragraph; Dixon and McTiernan: 3,4, 6, 10, and 13, Fullagar at 1, 2 and 8. Kitto at 3 and 15, Taylor at 1 and 10. (High Court Rules 2004 6.07, 1, 2 and 3, which purport to give a deputy registrar judicial power to refer a matter to a justice without notice to the plaintiff, is either ultra vires by this authority, or it must be overruled.)

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

The Fourth authority: relied upon invoking S 32 Judiciary Act 1903 is the practice of widespread and systematic use of "summary jurisdiction" by all Governments, using Judges and Magistrates drawn from the legal profession, when in 1995 the "Kable Principle" was successfully established by argument by Sir Maurice Byers in the High Court Transcripts dated 7th December 1995, and upheld clarifying the Constitutional Reach of S 79 Constitution, decided by reference to S 23 Judiciary Act 1903 by four judges of the High Court , namely: Kable v Director of Public Prosecutions (NSW) [1996] HCA 24
Toohey J (Judge 3) Paragraphs 19, 20, 21, and 32'
Gaudron J (Judge 4) Paragraphs 2, 11 and 12.
Mc Hugh J (Judge 5) Paragraphs 21, 25, 30, and 32.
Gummow J (Judge 6) Paragraphs; 13, 15, 60, 64 and 74.
Committal proceedings must be abolished and grand juries restored, or S 79 Constitution is inoperative.

The fifth authority is R v Kidman [1915] HCA 58
In 1915 no paragraphs were assigned to judgments, but all agreed: Griffith C.J.,Isaacs, Higgins, Gavan Duffy, Powers and Rich JJ. That the Crimes Act 1914 is a valid law, and to defraud the revenue is a crime justiciable in the High Court. A State Government cannot create a Higher authority than the High Court and it must assert its authority. It has authority under 75 (iii) Constitution to award the liquidated penalties provided by the Crimes Act 1914, because the Commonwealth consolidated revenue has an interest in those penalties either directly or by taxation.

Part VIII: A) **Article 19(1, 2) International Covenant on Civil and Political Rights states:**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

B) **Commonwealth of Australia Constitution Act 1900:**
1. Ch III The Judicature of the Constitution brings in the Judicature Act 1876 (Q)
2. S 79 Constitution makes a distinction between a "Court with a Judge" as cited in S 2 Judiciary Act 1903 definition of Appeal, and a "court with such number of judges" clarified as the "Kable Principle".
3. S 32 Judiciary Act 1903 gives the High Court unlimited jurisdiction and confers a duty upon it in equity. "The High Court shall… have power to grant and shall grant"
4. S 38 (e) Judiciary Act 1903 this matter is exclusively for the High Court.
5. S 58. Judiciary Act 1903 or (if the High Court has original jurisdiction in the matter) in the High Court.
6. S 80 Judiciary Act 1903 Common law to govern.
7. S 82 Judiciary Act 1903 Venue in suits for penalties:

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

Suits (See S 2 Judiciary Act 1903) Suits to recover penalties and forfeitures under the Laws of the Commonwealth may be brought either in the State or Territory where they accrue, or in the State or Territory where the offender is found. The High Court has a Registry in Queensland.

1. 71 Constitution; There SHALL be a Federal Supreme Court to be called the High Court. As the Federal Supreme Court, it is above all others.
   The Statute 1 Will and Mary (Coronation Oath) 1688 (C 6) is a Condition Precedent on the Commonwealth of Australia Constitution Act 1900 and by S 116 Constitution is the Official incorporation of the New Testament and Holy Bible into the law of the land. Quoted verbatim: "Will you to the utmost of your power maintain the laws of God the true profession of the Gospel and the Protestant reformed religion established by law? and will you preserve to the bishops and clergy of this **realm** and to the churches committed to their charge all such rights and privileges as by law doe or shall appertain unto them or any of them." S 79 Constitution reflects Paragraph 1, of the Gospel of Matthew Chapter 7. "Judge not that ye be not judged". The Supreme Being is Almighty God and the High Court is His court.

2. Ch III The Judicature of the Constitution brings in the Judicature Act 1876 (Q) S 71 Constitution . (The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.) Any less than 3 Justices one of whom must be the Chief Justice cannot exercise the Judicial Power of the Commonwealth in the High Court. Parliament cannot prescribe less than 3, under S 77 (i.) Constitution. It can however remit a matter back to the Federal Court of Australia with directions, that that court comply with S 79 Constitution with judges.

3. SECT 23 Judiciary Act 1903 Decision in case of difference of opinion (1) A Full Court consisting of less than all the Justices shall not give a decision on a question affecting the constitutional powers of the Commonwealth, unless at least three Justices concur in the decision.

4. S 25 Judiciary Act 1903 The process of the High Court shall run, and the judgments and orders of the High Court shall have effect and may be executed, throughout the Commonwealth.

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]

5. SECT 36 New Trials The High Court in the exercise of its appellate jurisdiction shall have power to grant a new trial in any cause in which there has been a trial whether with or without a jury.

6. SECT 42 Remittal of causes

(1) Where a cause or part of a cause is removed into the High Court under section 40, the High Court may, at any stage of the proceedings, remit the whole or a part of that cause or part of a cause to the court from which it was removed, with such directions to that court as the High Court thinks fit. S 79 Constitution makes a distinction between a "Court with a Judge" as cited in S 2 Judiciary Act 1903 definition of Appeal, and a "court with such number of judges" clarified as the "Kable Principle".

6. S 32 Judiciary Act 1903 gives the High Court unlimited jurisdiction and confers a duty upon it in equity. "The High Court shall… have power to grant and shall grant"

7. S 38 (e) Judiciary Act 1903 this matter is exclusively for the High Court.

8. S 58 Judiciary Act 1903 or (if the High Court has original jurisdiction in the matter) in the High Court. or (if the High Court has original jurisdiction in the matter) in the High Court. (Power to award the liquidated penalties claimed against the State of Victoria and Commonwealth)

9. S 80 Judiciary Act 1903 Common law to govern.

10. S 82 Judiciary Act 1903 Venue in suits for penalties:

Suits (See S 2 Judiciary Act 1903) Suits to recover penalties and forfeitures under the Laws of the Commonwealth may be brought either in the State or Territory where they accrue, or in the State of Territory where the offender is found. The High Court has a Registry in Queensland and by S 32 Judiciary Act 1903 has a duty to award the penalties claimed.

Dated 23 May 2023

…….
Michael Thomas Holt

To: The Defendants
Justice [redacted]

TAKE NOTICE: Before taking any step in the proceeding you must, within **14 DAYS** from service of this application enter an appearance and serve a copy on the plaintiff.

The plaintiff is self-represented.

Filed by the Applicant Michael Thomas Holt
Address [redacted], Qld 4[redacted]
Ph 0466119458 Email mthomholt@gmail.com
Address for Service [redacted], Qld 4[redacted]