

**The Case for Jurisdiction  
of the Commonwealth of Australia and the Crown**

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## Introduction

1. The Claimant protests his, and those of all Australians' their, legal and political rights within the Commonwealth of Australia, that there is only one Crown and one Queen, available at law, and that is expressed within said foundation law at the preamble and second clause.
2. The Claimant contends that the current administration of the executive, legislative and judicial powers in Australia, under the Crown of Australia and Queen of Australia do not comply with the laws of the Commonwealth and because of that condition there are no courts within Australia to find remedy.
3. The Claimant contends that the constitutional links between the Commonwealth of Australia and the Crown have never been severed as no law of the Commonwealth can do so without agreement of the Australian people and the Royal assent.
4. The Claimant contends that Australian people, in 1999, expressed their will to deny a change to the Commonwealth and Crown, via the referendum provision of s128 Constitution, and had expressed their celebration of the centenary of the Commonwealth and Crown throughout 2001.
5. The Claimant contends that an inconsistency, and conflict, arises between three laws of the United Kingdom, the Commonwealth of Australia Constitution Act 1900, the Australia Act 1986, and the Interpretation Act 1889 where the Commonwealth of Australia may be "under the Crown of the United Kingdom" and, at the same time, be severed for its constitutional links to the same Crown.
6. The Claimant protests against the pretended law, the Australia Act 1986 (Cth), in that it may sever the ties between Australia and the United Kingdom and protests that this court ought to be aware and hold to account that this Australia Act enactment does not fulfil the various constitutional requirements, for valid Commonwealth law, where it must be held for void and the severance treacherous and illegal.
7. The Claimant contends that the Commonwealth of Australia Constitution Act qualifies the people within "an indissoluble Federal Commonwealth under the Crown of the United Kingdom" in contradistinction to that of the purpose of the Australia Act (Cth).
8. The Claimant contends that the Crown may not recognise any body under the terms, 'Australian Government', or the 'Australian Parliament', in contradistinction to the 'Commonwealth Government', and the 'Parliament of the Commonwealth', for which the latter, by expression within the foundation law for the Commonwealth, are held as law of the United Kingdom.

9. The Claimant contends the orthodox view in the United Kingdom that jurisdiction of the Royal Courts of Justice to be without having jurisdiction to hear matters from the Commonwealth of Australia to be without merit and flawed in light of the law of the United Kingdom.
10. The Claimant contends the presumptive evidence against the pretended title of the Queen, Queen of Australia, provided herein cannot be denied until and unless evidence of proof is forthcoming to validate the enactment of the Royal Style and Titles Act 1973 to overcome and deny the presumption.

## **PART I**

### **Denial of jurisdiction**

#### **Farbey J of the High Court of England and Wales:**

1. On January 29 2019 Justice Mrs Farbey, of the High Court, issued an order, in the matter of CO/197/2019, for a habeas corpus application for Senator Rodney Culleton \*(in exile),:
2. The application for habeas corpus is refused because the High Court of England and Wales does not have jurisdiction
3. The reason for the restriction of application for a writ of habeas corpus, is found at the underlined passage of point 1 of her order:
  1. As I understand the grounds of your application, you wish to challenge Senator Culleton's imprisonment in Australia. You have selected the High Court of England and Wales for your application because Australia is a Commonwealth country. You have cited the Habeas Corpus Act 1816. But there is another Act that is relevant: the Habeas Corpus Act 1862. This latter Act means that no writ of habeas corpus shall issue out of England, even within the Commonwealth, to a place where functioning courts are able to consider habeas corpus applications.
4. The reason for the refusal for jurisdiction, continues from point 1 as underlined in the following passage of point 1 of the order:

You have not demonstrated why Senator Culleton cannot make application in Australia. For this reason I have concluded that this Court should not entertain your application and I refuse jurisdiction.
5. The judge's reasons, relied on, denies the evidence of the law for the Commonwealth that is submitted and illuminated within this document.

#### **Registrar of the JCPC:**

6. On January 30 2020 the Case Manager for the JCPC, Kelly-Anne Johnson, relayed the registrar's advice, relying on a decision of the High Court of Australia for denying access to the Privy Council on an application of Rodney Culleton:

"The JCPC was established by the Judicial Committee Act 1833 and section 3 of that Act makes it clear that its function is to hear appeals from courts of those jurisdictions for which it is the final court of appeal. The JCPC's jurisdiction has been abolished with respect to appeals from Australia see *Sue v Hill* [1999] HCA 30, [66]"

#### **High Court of Australia decision in *Sue v Hill*:**

7. The High Court of Australia, given that it acts under the High Court Act 1979 and taken to be a creature of the Australian Parliament, and not of the Constitution, agitated the

concept of Australia's sovereignty that the Registrar for the JCPC relies on to determine jurisdiction availability to the Privy Council as being closed.

8. The decision of *Sue v Hill* advances a position of the United Kingdom being a foreign power in contradistinction to that of the foundation law for the Commonwealth, where the preamble provides the terms entered into where the Commonwealth is 'subject to' conferring the status of the Crown of the United Kingdom being the 'power' within the Act:

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

9. The second clause binds the Crown to give effect to the condition of the Commonwealth of Australia:
10. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.
11. Paragraph 173 of the case decision in *Sue v Hill* refers to the claimed effect of the Australia Acts"

**173.** At the very latest, the Commonwealth of Australia was transformed into a sovereign, independent nation with the enactment of the Australia Acts. The consequence of that transformation is that the United Kingdom is now a foreign power for the purposes of s 44(i) of the Constitution

12. Paragraph 289 acknowledges the United Kingdom not to be a foreign power at the time of federation and identifies the argument of 'evolutionary process' for the manner in which the United Kingdom became a foreign power:

**289.** The petitioners (and the Commonwealth which supports them) acknowledge that at the time of Federation the United Kingdom was unquestionably not a foreign power. One of their primary arguments on the central question whether the United Kingdom is a foreign power is that, as time has passed, circumstances have changed, and the United Kingdom, by a process of evolution has now become a power foreign to Australia (the "evolutionary theory"). It is upon that argument that I wish to comment.

13. Paragraph 290 provides the vacancy of a date, or enactments, upon which may be relied on and identify the 'evolutionary process' made the United Kingdom a foreign power:

**290.** The evolutionary theory is, with respect, a theory to be regarded with great caution. In propounding it, neither the petitioners nor the Commonwealth identify a date upon which the evolution became complete, in the sense that, as and from it, the United Kingdom was a foreign power. Nor could they point to any statute, historical occurrence or event which necessarily concluded the process. There were,

they asserted, a series of milestones, for example, Federation itself, the *Statute of Westminster Adoption Act* (Cth), the *Royal Style and Titles Act 1973* (Cth) and the *Australia Acts*[386] but neither the last of these nor any other enactment was said to be the destination marker of the evolution.

14. Paragraph 298 raises the defect of uncertainty for which application of ‘evolutionary theory’ ought to be denied:

**297.** I would therefore be inclined to hold that the evolutionary theory which has been advanced in this case, having as it does the defect of uncertainty as to events and conclusion, should not be accepted or applied here.

## **PART II**

### **Australia Act 1986 (Cth)**

1. In 1985 a scheme was undertaken by the several states of the Commonwealth of Australia to ignore the condition of the Commonwealth and request the Australian Parliament to write a domestic law to sever the ties of the several States to the Crown.

#### **Preamble Australia Act 1986 (Cth):**

2. The Australia Act 1986 (Cth) states the purpose to alter the constitutional terms and conditions set in the foundation law for the Commonwealth as expressed in the opening preamble to the Australia Act 1986 (Cth):

An Act to bring constitutional arrangements affecting the Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a sovereign, independent and federal nation

3. Interpretation as found at Section 16, Australia Act, identifies the foundation law for the Commonwealth to be United Kingdom law:

"the Commonwealth of Australia Constitution Act" means the Act of the Parliament of the United Kingdom known as the Commonwealth of Australia Constitution Act;

#### **Constitutional power, s51 (xxxviii) (Cth Constitution):**

4. A Commonwealth power, at s51 (xxxviii) is contended by the Australian Government, and the several States, to be available in order to exercise the power of the parliament of the United Kingdom, at the time of federation, in a scheme to enact a law that terminates the authority of the United Kingdom within, and over, the Commonwealth of Australia.
5. The terms of s51 (xxviii) begin with the limitation expressed at s51 for which effect renders the exercise of section 51 to the whole of the Constitution and clauses:

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

### **Australia (Request and Consent) Act 1985**

6. The Australia (Request and Consent) Act 1985, being expressed as passed by the Parliament of Australia fails to claim the power of the Parliament of the Commonwealth and claims the change of the condition of the Commonwealth in contradistinction to that as expressed "under the Crown of the united Kingdom" in the preamble of the foundation law.

#### **The Parliament of Australia enacts:**

**WHEREAS** the Prime Minister of the Commonwealth and the Premiers of the States at conferences held in Canberra on 24 and 25 June 1982 and 21 June 1984 agreed on the taking of certain measures to bring constitutional arrangements affecting the

Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a sovereign, independent and federal nation:

7. The enacting parties do not include the Queen of United Kingdom by use of the expression, 'the Queens Most Excellent Majesty' in fulfilment of the second clause of the foundation law.

BE IT THEREFORE ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, .....:

8. Section 3 terminates the condition of the Commonwealth under the Crown.

3 Termination of restrictions on legislative powers of Parliaments of States

(1) The Colonial Laws Validity Act 1865 shall not apply to any law made after the commencement of this Act by the Parliament of a State.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a State shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a State shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the State.

Australia Act (Request and Consent) Act 1985 (WA)

9. The Parliament of Western Australia passed a bill in substantially the same terms, and reasons, as that of the Australian Parliament where the expression of the Queen of United Kingdom was made in contradistinction to that of the bill passed by the Australian Parliament.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same,

**Limitations, Colonial Laws Validity Act 1865, ss109 & 106 (Cth Constitution):**

10. The several States, in application of the common law that holds their laws to the standard of Crown Law, were subject to the Colonial Laws Validity Act 1865 that may not deny the Crown for which the several States passed law, Australia Act .
11. The several States, in participation of the Commonwealth, were subject to the preamble and clauses preceding the Constitution, pursuant to section 109, Commonwealth Constitution, that may not deny the Crown:

S109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.  
(underlined for emphasis)

12. The several States, in fulfilment for the role of Governor that is a constituent part of each State's constitution are held to execution of the Governor's position pursuant to the savings of State's constitutions at section 106 Commonwealth Constitution:

S106. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

(underlined for emphasis)

### **Constitutional limitation upon Western Australia**

13. The Constitution Act 1889 (WA) provides for the office of Governor at section 50:

S50. (1) The Queen's representative in Western Australia is the Governor who shall hold office during Her Majesty's pleasure.

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

(underlined for emphasis)

### **73. Legislature as constituted by this Act empowered to alter any of its provisions**

(2) A Bill that —

- (a) expressly or impliedly provides for the abolition of or alteration in the office of Governor; or
- (b) expressly or impliedly provides for the abolition of the Legislative Council or of the Legislative Assembly; or
- (c) expressly or impliedly provides that the Legislative Council or the Legislative Assembly shall be composed of members other than members chosen directly by the people; or
- (d) expressly or impliedly provides for a reduction in the numbers of the members of the Legislative Council or of the Legislative Assembly; or
- (e) expressly or impliedly in any way affects any of the following sections of this Act, namely —
  - sections 2, 3, 4, 50, 51 and 73,
  - shall not be presented for assent by or in the name of the Queen unless —
- (f) the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly, respectively; and
- (g) the Bill has also prior to such presentation been approved by the electors in accordance with this section,

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

### Offences:

14. The Crimes Act 1914, reprint 1973, provides for the crime of sedition for contempt of the Sovereign, governments, dominions and constitutions at s24A, in part and as underlined:

#### **Crimes Act 1914 - SECT. 24A.**

Definition of seditious intention.

24A. An intention to effect any of the following purposes, that is to say-

- (a) to bring the Sovereign into hatred or contempt;
- (b) to excite disaffection against the Sovereign or the Government or Constitution of the United Kingdom or against either House of the Parliament of the United Kingdom;
- (c) to excite disaffection against the Government or Constitution of any of the Queen's dominions;
- (d) to excite disaffection against the Government or Constitution of the Commonwealth or against either House of the Parliament of the Commonwealth;
- (e) to excite disaffection against the connexion of the Queen's dominions under the Crown;
- (f) to excite Her Majesty's subjects to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Commonwealth established by law of the Commonwealth; or

is a seditious intention.

#### **Crimes Act 1914 - SECT. 24B.**

Definition of seditious enterprise.

(1) A seditious enterprise is an enterprise undertaken in order to carry out a seditious intention.

(2) Seditious words are words expressive of a seditious intention.

#### **Crimes Act 1914 - SECT. 24C.**

Offences.

24C. Any person who-

- (a) engages in or agrees or undertakes to engage in, a seditious enterprise;

- (b) conspires with any person to carry out a seditious enterprise;
- (c) counsels, advises or attempts to procure the carrying out of a seditious enterprise,

shall be guilty of an indictable offence.

Penalty: Imprisonment for three years.

15. The Crimes Act 1914, reprint 1973, provides for the crime of treachery to overthrow the Commonwealth Constitution without manner of law at s24AA, in part and as underlined:

**Crimes Act 1914 - SECT. 24AA.**

Treachery.

24AA. (1) A person shall not-

(a) do any act or thing with intent-

(i) to overthrow the Constitution of the Commonwealth by revolution or sabotage; or

(3) A person who contravenes a provision of this section shall be guilty of an indictable offence, called treachery.

Penalty: Imprisonment for life.

**Crimes Act 1914 - SECT. 21C.**

Burden of proof of lawful authority.

21C. Where under any law of the Commonwealth any act, if done without lawful authority, or without lawful authority or excuse, or without permission, is an offence against that law, the burden of proving that the act was done with lawful authority, or with lawful authority or excuse, or with permission (as the case may be), shall be on the person accused.

16. The Criminal Code 1913, in commonality with 24AA Crimes Act 1914 for contempt, provides for sedition at s44, in part and as underlined:

**Criminal Code 1913 - s44.**

An intention to effect any of the following of purposes, that is to say:

(a) To bring the Sovereign into hatred or contempt;

(b) To excite disaffection against the Sovereign, or the Government or Constitution of the United Kingdom, or of the Commonwealth of Australia, or of Western Australia as by law established, or against either House of Parliament of the United Kingdom, of the Commonwealth of Australia, or of Western Australia, or against the administration of justice;

(c) To excite Her Majesty's subjects to attempt to procure the alteration of any matter in the State as by law established otherwise than by lawful means;

is a seditious intention, unless it is justified by the provisions of the next following section.

### **Part III**

#### **Australia Act 1986 (UK)**

1. The intention of the term, the Commonwealth, in application under the laws of the Commonwealth conflict with the words that describe the Commonwealth of Australia, as 'sovereign and independent', within the preamble of the Australia Act (Cth).
2. The Australia Act 1986 (UK) omits the words 'Sovereign and independent' from the Act and provides the reference that finds its meaning within the Commonwealth of Australia Constitution Act.
3. Section 16 (1) of the Australia Act 1986 (UK) refers to the 'Commonwealth and the Commonwealth of Australia as that established under the Commonwealth of Australia Constitution Act.

" the Commonwealth " means the Commonwealth of Australia as established under the Commonwealth of Australia Constitution Act ;

4. There is no provision that refrains from the current expression "under the Crown of the United Kingdom".
5. To the extent that section 16 refers to the Commonwealth under the Crown, there may be no application of the Act to sever the ties that denies the Queen and Crown from application to fulfil the performance of the Commonwealth of Australia.

## **Part IV**

### **Commonwealth of Australia Act 1900 (UK)**

#### **Commonwealth of Australia Constitution Act**

1. The Commonwealth of Australia is established under the Crown by a single instrument of the Imperial Parliament: An Act to Constitute the Commonwealth of Australia (the Act):

#### **COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - PREAMBLE**

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

¶ 271. "The Executive Government."

"The Commonwealth is a united political community, composed of the people and of the States.

(Commentaries on the Constitution of the Commonwealth of Australia - Garran)

2. Continuing, the Commonwealth carries the authority of the Crown:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

3. The Sovereign is identified as the Queen of United Kingdom and bound within the Act:

#### **- CLAUSE 2**

Act to extend to the Queen's successors

The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

4. The Commonwealth of Australia is the inalterable name of the union:

#### **- CLAUSE 3**

##### **Proclamation of Commonwealth**

It shall be lawful for the Queen, .....to declare by proclamation that ....., the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and ..... Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia.

5. Continuing at clause 3, the Governor-General, pertains to the Commonwealth:

But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

6. The Commonwealth and the Commonwealth are inseparably in effect:

**- CLAUSE 4**

**Commencement of Act**

The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed.

7. Continuing at clause 4, the several colonies are continued for authority:

But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

8. The Preamble, defining the contract, and clauses defining the sovereign and the Commonwealth, are binding upon the people of the several states and territories for regard to the contract of the union under the Crown and the judiciary, for settlement of any controversy in adherence thereto:

**- CLAUSE 5**

**Operation of the Constitution and laws**

This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State;

9. The Commonwealth may have no other meaning other than as defined at clause 6. The several colonies, named, rely on the Act to exist:

**- CLAUSE 6**

**Definitions**

"*The Commonwealth*" shall mean the Commonwealth of Australia as established under this Act.

"*The States*" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, .....

**Part 1a. Commonwealth Constitution**

10. The Queen, as identified in the preceding second clause to the constitution, is exclusively vested, as part of the Parliament of the Commonwealth, for the legislative power for the Commonwealth.

**- SECT 1**

**Legislative power**

The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called *The Parliament*, or *The Parliament of the Commonwealth*,

11. The office of Governor-General is subject, in representation, to the terms of the second clause, and subject to the constitution, likewise subject, in exercise of power.

**- SECT 2**

**Governor-General**

A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

12. The administration of the Commonwealth is the prescribed purpose and function of the Governor-General:

**- SECT 4**

**Provisions relating to Governor-General**

The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

13. The Sovereign, by representation, controls the Parliament:

**- SECT 5**

**Sessions of Parliament. Prorogation and dissolution**

The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

14. The election of members of parliament is that as prescribed by the constitution, ultimately thereupon as qualified by the covering-clauses:

**- SECT 8**

**Qualification of electors**

The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

15. State law relating to election of senators are subject to the Constitution of the Commonwealth:

**- SECT 10**

**Application of State laws**

Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

16. The Governors of a State, in effecting an election for a senator, necessarily acts in common jurisdiction of the Crown with the Governor-General:

**- SECT 12**

**Issue of writs**

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

17. The sovereign must be represented for writs of election to be issued:

**- SECT 32**

**Writs for general election**

The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

.....

18. The requirement to take the oath to the sovereign, as prescribed in the schedule to the Constitution, is prerequisite command before attending the respective functions of office and requires the Sovereign's representation:

**- SECT 42**

**Oath or affirmation of allegiance**

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

19. The 'foreign power' reference is that as foreign to the power within the Act identified at the Preamble, being the Crown, for compromise of fidelity:

**- SECT 44**

**Disqualification**

Any person who:

(i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or

20. Section 44 requires, of those elected to Parliament, good standing in character and fidelity to the Crown:

(ii) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or

21. The power to make laws for the Commonwealth is taken 'special', limited, as subject to the Constitution as a whole, subject in turn to the Crown:

**- SECT 51**

**Legislative powers of the Parliament [see Notes 10 and 11]**

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

22. The power of the Parliament of the United Kingdom, exercisable under the scheme of unanimous concurrence of State Parliaments, is subject to that power available at the establishment of the Commonwealth Constitution, precluding the power to remove the Crown or divide it.

(xxxviii) the exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia;

23. Oversight of lawmaking in the Commonwealth is the domain of the Sovereign in which advice may necessarily only be exercised by a minister of Her Majesty's government in United Kingdom in accord to Her Majesty's title. By operation of the disallowance, the function holding the Commonwealth in suspense identifies the Queen of United Kingdom, for exercise, exclusively:

**- SECT 59**

**Disallowance by the Queen**

The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

¶ 269. "The Queen May Disallow."

"In Committee, Mr. Reid moved to substitute "one year" for "two years," on the ground that two years was too long to keep the Commonwealth in suspense."

(Commentaries on the Constitution of the Commonwealth of Australia - Garran)

24. "A proposed law reserved for the Queen's pleasure ..." is a requirement of Her Majesty's Crown ministers (UK) exclusive involvement, for advice:

**- SECT 60**

**Signification of Queen's pleasure on Bills reserved**

A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

¶ 270. "A Proposed Law Reserved."

"The principal consideration influencing his discretion will probably be whether the proposed law is in conflict with Imperial legislation applicable to the colonies, or inconsistent with the treaty obligations of Her Majesty's Government."

(Commentaries on the Constitution of the Commonwealth of Australia - Garran)

25. Consistent to the second clause the executive power is exclusively that of the Crown:

**- SECT 61**

**Executive power**

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

¶ 273. "Vested in the Queen."

"The Federal Executive power granted by this Constitution is vested in the Queen. This statement stereotypes the theory of the British Constitution that the Crown is the source and fountain of Executive authority, and that every administrative act must be done by and in the name of the Crown."

(Commentaries on the Constitution of the Commonwealth of Australia - Garran)

26. The High court is mandated to function as the judicial power of the Crown, and apex in the Commonwealth, by creation of the Constitution:

**- SECT 71**

**Judicial power and Courts**

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

¶ 287. "Shall be Vested."

"MANDATORY WORDS—These words are imperative, at least so far as the High Court is concerned; and are mandatory on the Parliament to carry the vesting into effect"

¶ 288. "The High Court of Australia."

"- The High Court is the crown and apex, not only of the judicial system of the Commonwealth, but of the judicial systems of the States as well."

(Commentaries on the Constitution of the Commonwealth of Australia - Garran)

27. The Parliament, Parliament of the Commonwealth, is solely authorised to create other courts of Federal jurisdiction:

**- SECT 72**

**Judges' appointment, tenure, and remuneration**

The Justices of the High Court and of the other courts created by the Parliament:

28. The constitution protects access to the Queen in Council: " Except as provided in this section" proves the rule: "this Constitution shall not impair any right" .... "to grant special leave of appeal from the High Court to Her Majesty in Council"

- SECT 74  
Appeal to Queen in Council

.....

.....

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

29. The States' constitutions, as saved by the Commonwealth Constitution, are subject to the Crown:

- SECT 106  
**Saving of Constitutions**

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

30. The power of the Crown is inherent in the parliament of the State by virtue of the Colony established, constitutionally, as a State:

- SECT 107  
**Saving of Power of State Parliaments**

Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

31. No law of a State may be inconsistent with the three tiers of the 'Laws of the Commonwealth' beginning with the clauses and preamble to the Act respecting the Crown:

- SECT 109  
**Inconsistency of laws**

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

¶ 37. "The Laws of the Commonwealth."

This is a more suitable and comprehensive expression than the one which appears at the beginning of this clause, viz., "this Act and all laws made by the Parliament of the Commonwealth." The laws of the Commonwealth will consist of the following classes:

- (I.) The Commonwealth of Australia Constitution Act.
- (II.) Alterations of the Constitution pursuant to the provisions of Chapter VIII.
- (III.) Laws made by the Parliament of the Commonwealth under the Constitution.

(Commentaries on the Constitution of the Commonwealth of Australia - Garran)

32. The rights of the people are in force across the States as consistent to subjects of the Queen, and Crown, and protected by the same:

**- SECT 117**

**Rights of residents in States**

A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

33. The commonality for full faith and credit for the official matters of every State is the Crown:

**- SECT 118**

**Recognition of laws etc. of States**

Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

34. The Commonwealth Constitution is protected by manner of exception to change, vested in the people of the Commonwealth, as electors, for the Queen's assent as qualified by the second clause. The exception proves the rule.

**- SECT 128**

**Mode of altering the Constitution**

This Constitution shall not be altered except in the following manner:

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

.....  
And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.  
.....

35. The oath to be performed for public office of the Crown is that to the Crown which identifies the monarch as an 'heir and successor' of Queen Victoria. This qualification necessitates the monarch being the office with the right to title where there can only be one, and indivisible, Queen of United Kingdom as specified in the Note within the Schedule:

**- SCHEDULE**

**OATH**

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

**SO HELP ME GOD!**

**AFFIRMATION**

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

(NOTE *The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.* )

## Part V

### Interpretation Act 1889 (UK)

1. There is not reference within the law of the United Kingdom to replace or supersede the provision of section 32 Interpretation Act so that a contrary intention may be made.
2. Section 30 Interpretation Act 1889, for reference to the current Sovereign, is replicated by the Interpretation Act 1978 at section 10 and reads in the former Act:

**30.** In this Act and in every other Act, whether passed before or after the commencement of this Act, references to the Sovereign reigning at the time of the passing of the Act or to the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being, and this Act shall be binding on the Crown.

3. The Commonwealth of Australia Constitution Act vests exclusively the powers within the Constitution to the Queen of United Kingdom.
4. Section 32 (1)&(2) has not been given a contrary intention in any law of the United Kingdom and reads:

**32.—(1.)** Where an Act passed after the commencement of this Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

**(2.)** Where an Act passed after the commencement of this Act confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

5. Up to the time of 1978, when the Interpretation Act 1978 came into force, the Interpretation Act 1889 was law applicable throughout the Commonwealth for application to the Constitutions therein.
6. The repeal of the Act held the provisions, that continue in force, to application unless a contrary intention appeared.
7. The Royal Style and Titles Acts of domestic law within Australia were in conflict with the second clause to the Constitution for the Commonwealth and could not be regarded as the office expressed within the second clause could not be altered.

## **Part VI**

### **Rights of Her Majesty's Subjects**

1. The preamble within the foundation law for the Commonwealth evidences the people of the several States being the high contracting parties and forming the body politic “an indissoluble federal Commonwealth under the Crown of the United Kingdom” where the Act recognises no other authority to make alteration.
2. All Australians have the right to live and enjoy their right to the Commonwealth, as by law of the United Kingdom is enshrined to be under the protection of the Queen and Crown.
3. To interfere, by way of coercion, intimidation, hindrance, or deception, with the free exercise of one's political rights, or access to such political right, is a crime.

#### **Crimes Act 1914 - SECT. 28.**

##### **Interfering with political liberty.**

28. Any person who, by violence or by threats or intimidation of any kind, hinders or interferes with the free exercise or performance, by any other person, of any political right or duty, shall be guilty of an offence.

Penalty: Imprisonment for three years.

## **Part VII**

### **Evidence, Presumption and Proof**

Rule of presumption from <https://evidence.uslegal.com/presumptions/>

#### **Presumptions**

Previously, there was a good deal of controversy among legal professionals and scholars over the effect of presumptions, but these have largely ended, at least in the federal system. Presumptions are just that, a presumption that certain evidence is what it is on its face. Sometimes, however, a presumption can be rebutted by other evidence. There are two kinds of rebuttable presumptions: those that affect the burden of producing evidence and those that affect the burden of proof. In most cases, courts interpret presumptions as rebuttable.

A presumption is not considered evidence. But if an opponent to a presumption puts on no evidence to rebut the presumption, the judge or jury must assume the existence of the presumed fact. On the other hand, if an opponent to a presumption does provide evidence to rebut the presumption, the presumption has no further effect.

(underlined for emphasis)

Rule of presumption from [https://www.law.cornell.edu/rules/fre/rule\\_301](https://www.law.cornell.edu/rules/fre/rule_301)

#### **Rule 301. Presumptions in Civil Cases Generally**

In a civil case, unless a federal statute or these rules provide otherwise, the party against whom a presumption is directed has the burden of producing evidence to rebut the presumption. But this rule does not shift the burden of persuasion, which remains on the party who had it originally.

Notes

(Pub. L. 93–595, §1, Jan. 2, 1975, 88 Stat. 1931; Apr. 26, 2011, eff. Dec. 1, 2011.)

Notes of Advisory Committee on Proposed Rules

This rule governs presumptions generally. See Rule 302 for presumptions controlled by state law and Rule 303 [deleted] for those against an accused in a criminal case.

Presumptions governed by this rule are given the effect of placing upon the opposing party the burden of establishing the nonexistence of the presumed fact, once the party invoking the presumption establishes the basic facts giving rise to it. The same considerations of fairness, policy, and probability which

dictate the allocation of the burden of the various elements of a case as between the prima facie case of a plaintiff and affirmative defenses also underlie the creation of presumptions. These considerations are not satisfied by giving a lesser effect to presumptions.

### **Judicial notice for presumption**

Where evidence presumes, the law presumes.

Where the law presumes the presumption may not be overcome, or denied, except by proof.

Judicial notice must be taken that Her Majesty, in her office of the Crown, having sworn to rule and serve the people of Australia is taken for Her Coronation Oath promise made in 1953, and is current in the absence of any other.

Judicial notice must be taken that the second clause that extends Queen Victoria's application within the Commonwealth is taken to be law for regularity and paramountcy, exclusively to Her Majesty, as Queen of United Kingdom.

There is no evidence that the Commonwealth Constitution, or any instrument, provides a provision, or power, to contradict, or supersede, the performance of the second clause for Her Majesty's application within the Commonwealth.

There is no evidence that a constitutional authority exists for the creation of a title, Queen of Australia, for adoption by Her Majesty.

Evidence is submitted that the constitutional authority, head of power, for the Royal Style and Titles Act 1973 does not exist, as attached to this document for which are as follows:

### **Attachment 4 - MINUTE 445 BY LINDELL**

MINUTE 445 BY LINDELL (March 20 1973) provides an advice, (by G.J. Lindell, Principal Legal Officer) of the Department of the Attorney-General to the Department of Foreign Affairs and Trade, at the point 2 that acknowledges:

“(t)he absence in the Constitution of any enumerated power to pass laws touching the Succession to the Throne or the Royal Styles and Titles”

(underlined for emphasis)

### **Attachment 5 - Reports of the Constitutional Commission 1988.**

**Notice of Extracts - Queen and Crown, First & Final Constitutional Commission Reports 1988**, by Darren Dickson, have commentary upon the extracts which are drawn from the documents at the following links:

FIRST REPORT OF THE CONSTITUTIONAL COMMISSION VOLUME I

<http://www8.austlii.edu.au/cgi-bin/download.cgi/cgi-bin/download.cgi/download/au/other/IndigLRes/1988/16.pdf>

FIRST REPORT OF THE CONSTITUTIONAL COMMISSION VOLUME II

<http://www8.austlii.edu.au/cgi-bin/download.cgi/cgi-bin/download.cgi/download/au/other/IndigLRes/1988/19.pdf>

FINAL REPORT OF THE CONSTITUTIONAL COMMISSION 1988 Volume One

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/IndigLRes/1988/18.html?stem=0&synonyms=0&query=First%20constitution%20commission%20report%201988>

FINAL REPORT OF THE CONSTITUTIONAL COMMISSION 1988 Volume Two

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/IndigLRes/1988/17.html?stem=0&synonyms=0&query=First%20constitution%20commission%20report%201988>

1. In 1988 a constitutional commission, chartered by the Australian government, released two reports in four volumes to identify and detail for recommendation on the constitutional issues of the day with a view to promote a legalisation of those issues outstanding for regularity or authority. Some of the most notable issues identified by the commission were identified by Darren Dickson of Melbourne, Victoria, and presented for attention and consideration to more than fifty officials across Australia, submission for evidence in courts and presentation to Her Majesty, Her Majesty's government, ministries, Speakers of both Houses and party leaders for which there has been no denial or substantive correction.
2. The documents shows, at page 4, the Constitutional Commission Reports recommends that the second clause be altered to recognise an Australian office of the Queen in the phrase "in the sovereignty of the United Kingdom" to have "the United Kingdom" to be substituted with 'Australia'.
3. The documents further shows, at page 5, the Constitutional Commission Reports recommends a bill, **Bill No. 1** (point 11), to hold a referendum pursuant to s128 of the Constitution to recognise the Queen of Australia, which strongly infers and presumes that the Constitution does not.
4. The documents further shows, at page 6, the Constitutional Commission Reports recommends a bill, **Bill No. 2** (point 12), to hold a referendum pursuant to s128 of the Constitution to recognise an oath of the Queen of Australia, which strongly infers and presumes that the Constitution does not.
5. The documents shows, at page 6, the Constitutional Commission Reports recommends a bill, **Bill No. 3** (point 13), to hold a referendum pursuant to s128 of the Constitution to recognise the power to laws for citizenship, which strongly infers and presumes that the

Constitution does not and that the previous acknowledgement in Australia that the people were naturally British citizen overseas was evident by their British passports.

#### **Attachment 6 - FOI Findings on the Royal Style And Titles Act 1973**

6. From 2004 to 2015 the Department of the Prime Minister and Cabinet issued five findings upon several requests seeking the constitutional authority for the Royal Style and Titles Act 1973 to be valid Commonwealth law for which each and every finding was to state that the sought instrument could not be found and therefore each of the requests was refused as the instrument sought, constitution authority, “did not exist”.

1. FOI finding of Dept PM&C to Neil Piccinin 2004
2. FOI finding of Dept PM&C to Lyall Semph 2004
3. FOI finding of Dept PM&C to Neil Piccinin 2006
4. FOI finding of Dept PM&C to Joe Rossi 2015
5. FOI finding of Dept PM&C to Geoff Teague 2015

#### **Attachment 7 – Certificate of Harry Hopes**

7. **Certificate of Harry Hopes, Royal Style and Titles Act 1973** – Inquiry upon Secretary of Department of the Prime Minister and Cabinet 2015 -2016, dated April 14 2016.

8. Extracts of note:

Drawn from the record of correspondence between myself and Mr M Thawley, for the Department of the Prime Minister and Cabinet, from September 30 2015, for an understanding of a Commonwealth record concerning the head of power for the Royal Style and Titles Act 1973, it is taken that the following facts are admitted:

1. The Department of the Prime Minister and Cabinet (Dept PM&C) is responsible for the ***Royal Style & Titles Act 1973*** in its enactment and administration;
2. The Dept PM&C released several documents under the Department letterhead for due regard of a finding of the head of power for the ***RS&T Act*** beginning in 2004;
3. These documents are:
  - 1) An FOI answer by Mr Sanderson for the *Dept PM&C* in February 2004 to Mr Piccinin.
  - 2) An FOI answer by Mr Sanderson for the *Dept PM&C* in October 2004 to Mr Sempf.

- 3) An FOI answer by Mr Sanderson for the *Dept PM&C* in August 2006 to Mr Piccinin.
- 4) An FOI answer by Mr Rush for the *Dept PM&C* in February 2015 to Mr Rossi.
- 5) An FOI answer by Mr Arnaudo for the *Dept PM&C* in August 2015 to Mr Teague.

Outcome:

20. There is no mistake that the Dept PM&C made a finding on the several occasions on the head of power for the RS&T Act 1973 and that finding, in that the head of power does not exist;
21. There is no mistake that the finding, in that the head of power does not exist, extends to the fact that the RS&T Act 1973 is not valid Commonwealth law, which extends to the fact that the Queen of Australia does not exist in law and provides no right or force of application.

### **Attachment 7 – Certificate of Harry Hopes**

9. **Certificate of Harry Hopes, Crown Jurisdiction of Western Australia** – An understanding of judicial power under law, dated December 12 2017.
10. Inquiry upon a decision of the three justices, Mazza, Beech and Hill, in the matter CACR 119/2016 regarding an application to inquire upon the jurisdiction exercise of the Supreme Court of Western Australia failed to elicit an answer to the clarity of their decision regarding the judicial power of the court.
11. Notably the certificate contains extracts as underlined for emphasis:

The undersigned sought to understand the decision of the court in relation to the application concerning the question of jurisdiction by notice and opportunity for response on three occasions and proceeds upon the Notice of Non-Response dated August 28 2017 supported by affidavit where the opportunity for response or denial of the presented facts is past due, being more than 28 days spent, this certificate attests.

The said notice concerned a petition, to understand and establish the law of the jurisdiction to proceed in an appeal, by way of application, under the Queen of Australia and its Crown.

The application was heard on May 24 2017 and sought to address, for answer, the anomalies arising from the current practice of the court in providing justice under a Crown, not expressed for in the foundation law, for which no satisfactory answer provides reasoning of departure from the Crown as having established the Commonwealth of Australia. Application was denied and the springing order took effect against the time to file an appeal. No answer on the anomalies of the two Crowns was received for jurisdictional submission in light of the current expression of the foundation law.

## **Commission for Governor of New South Wales**

### **Attachment 9 – Commission of Governor for NSW - Signed and Sealed**

12. Letter of Commission for the Governor of NSW, dated May 8 2014, is one the first face of the instrument, given under the Queen by the title Queen of Australia, indicative of appointments of State Governors. (page 44)
13. The second page claims the appoint for the Governor for NSW in the Commonwealth of Australia, for which body politic has no recognition to the Queen of Australia.

### **Attachment 10 – Emails of the Secretary for NSW Governor for authority of office**

14. In response to the inquiry of Mr Piccinin Christopher Sullivan, Deputy Official Secretary to the Governor (Government House Sydney) made a response on the consequence of Queen of Australia on the Letter of Commission in place of the Queen of United Kingdom by law referenced for application within the Commonwealth for authority:

In relation to your email of 5 April 2019, it is true that Clause 2 of the Commonwealth of Australia Constitution Act 1900 (UK) refers to the sovereign of the United Kingdom but the reference to the Queen of Australia in the Commission granted by the sovereign to the present Governor on 8 May 2014 is correct because of s 2 of the Royal Style and Titles Act 1973 (Cth) and s 7 of the Australia Act 1986 (Cth).

(page 48 as underlined for emphasis )

15. In the course of inquiry on the inability to sustain the legitimacy of the Royal Style and Titles Act 1973, for the Queen of Australia, and the Australia Act, receiving assent under this adopted title, the Deputy Official Secretary terminated dialogue after several emails without maintaining the validity of the application of the Queen of Australia, and the Australia Act, for legitimate authority in the said Commission.

### **Attachment 11 – FOI 14/235 Prerogative for Queen of Australia by UK Instrument**

16. An information request dated November 10 2014 an instrument, issued by the Government, or the Parliament, of the United Kingdom, was sought for the Queen of Australia to use the royal prerogatives granted to the Queen of United Kingdom for which finding was that none exists.

### **Attachment 12 – Hansard Passages - Commons and Lords - January 1986**

17. It is apparent the bill was to sever the constitutional ties without regard to the proper process constitutionally required, believing that the Australian people agreed. No debate can be found that regard to the Constitution for the Commonwealth of Australia was made. Mr Maxwell-Hyslop states, at page 57 of the attachment, “If the Bill should be tested, as it could be in the British court. an Australian court or, in cases of conflict of jurisdiction, in any other court in the world“

## **Part VIII**

### **Fulfilment of Jurisdiction**

1. The right of every one of the people of the several States within the Commonwealth may not be denied in seeking judicial remedy in the United Kingdom when the domestic courts have failed them and are not able, or willing, to provide relief.
2. The weight of evidence is such that it may not be ignored, in the absence of proper demonstration, on how the Queen of United Kingdom may be removed, and not be taken as legitimate authority, for the granting of executive, legislative and judicial power within the Commonwealth of Australia.
3. That the court must take judicial notice of the presumption, by evidence herein, against the Australia Acts for denial of jurisdiction that is against the right of the Crown and the Commonwealth of Australia.

### **ACTS INTERPRETATION ACT 1901:**

4. The Commonwealth laws, and State laws, as passed by their respective parliament's, are subject to the Commonwealth Constitution

#### **- SECT 15A**

#### **Construction of Acts to be subject to Constitution**

Every Act shall be read and construed subject to the Constitution, and so as not to exceed the the legislative powers the Commonwealth, to the intent that where 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 which it is not in excess of that power.

### **Failure to meet constitutional standards:**

5. That the evidence for presumption is against the Australia Act 1986 (Cth) for which Act is not in fulfilment of the Constitution Act 1889 (WA), at section 2(3) and 73, the Commonwealth of Australia Constitution Act to the clauses, s51(xxxviii), s109 and s128, the Colonial Laws Validity Act 1865 and the Interpretation Act 1889. The evidence of invalidity against the Australia Act for application to sever the ties to the Queen and Crown includes, amongst other things, those as submitted herein this document and as attached.
6. The right and dignity of Her Majesty for application of Her title within the Commonwealth, the people of Australia, as by law entrenched, is the foremost concern of this court for which the claimant prays.