

Notes**Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to a Registrar:
 - (a) at the address specified in the subpoena for the purpose; or
 - (b) if more than one address is specified - at any of those addresses;so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify a Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to

the proceeding, a Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by a Registrar, produce a list of the documents or things produced.

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce. The copy of a document may be:

- (a) a photocopy;
- (b) in an electronic form in any of the following electronic formats:
 - .doc and .docx – Microsoft Word documents
 - .pdf – Adobe Acrobat documents
 - .xls and .xlsx – Microsoft Excel spreadsheets
 - .jpg – image files
 - .rtf – rich text format
 - .gif – graphics interchange format
 - .tif – tagged image format; or
- (c) a digital link through which the documents can be downloaded.

Applications in relation to subpoena

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court - arrest

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee

who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Declaration by Addressee (Subpoena Recipient)

The **addressee** is the person to whom this subpoena is addressed, and who will be the recipient of this subpoena.

You may produce copies of any subpoenaed documents, unless the subpoena specifically requires you to produce originals. A copy of a document may be:

- (a) a photocopy; or
- (b) in an electronic form that the issuing party (the party that issued the subpoena) has indicated to you will be acceptable.

You must sign and date this declaration and return it as part of this subpoena, with the documents or things you are required to provide to the Court under this subpoena.

Unless you declare that some or all of the documents that you are producing to the Court under this subpoena are original materials of which you seek return, by signing and dating this declaration (at the foot of this page), you acknowledge that those materials may be destroyed once they are no longer required by the Court, without further notice to you.

Return of documents or things
(Complete only if applicable)

- Some or all of the documents that I am producing to the Court under this subpoena are original materials of which I seek return. I request that the original materials identified in the **Schedule of documents or things to be returned** (on the following page) are returned to me at the following address:

- None of the documents that I am producing to the Court under this subpoena are original materials of which I seek return.

Date:

.....
Signed by [Name of addressee]
Addressee

Schedule of documents or things to be returned

The documents and things I have declared to be originals and, thus, request to be returned are as follows:

[List the documents or things. Attach list if insufficient space.]

ANNEXURE 3**NOTICE OF FILING****Details of Filing**

Document Lodged:	Reply - Form 34 - Rule 16.33
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	11/12/2023 2:10:47 PM AEDT
Date Accepted for Filing:	11/12/2023 2:10:52 PM AEDT
File Number:	NSD741/2023
File Title:	AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY v ANDREW MORTON GARRETT
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 1 CONCISE REPLY TO CONCISE STATEMENT OF LUCINDA MCCANN FILED 20th July 2023 AND CROSS CLAIM

(rule 15A.6)

Federal Court of Australia

No. NSD 741 of 2023

District Registry: NSW

Division: Corporations

IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED), ABN 50 785 365 455 (“THE CROWN”)

**AUSTRALIAN PRUDENTIAL REGULATORY AUTHORITY
ABN 79 635 582 658 (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)
ABN 33 446 145 662**

The Plaintiff, Defendant by Counterclaim

&

ANDREW MORTON GARRETT,

- **CROWN ATTORNEY GENERAL ABN 25 582 859 403,**
- **TRUSTEE OF THE OFFICE OF THE CROWN ATTORNEY GENERAL TRUST ABN 33 785 287 219**
- **LIQUIDATOR, AND MANAGING CONTROLLER, BENEFICIARY OF PRIVATE AND PUBLIC TRUSTS, PRIOR TRUSTEE SECURED BY LIEN ABN 70 432 067 434**
- **TRUSTEE OF A LETTER TO MY SONS TRUST ABN 90 243 103 687**
- **SECURED PARTY CREDITOR, REGISTRATION NUMBER 40591602**

The Defendant/Respondent, Plaintiff by Counter Claim and Plaintiff by Cross Claim

&

OTHERS NAMED IN THE EXHIBITS PRODUCED AND MARKED AS;

- **AMG 6776**
- **AMG 6867**
- **AMG 6793**
- **AMG 7015**

The Important Facts given in Reply

1. The Respondent denies Paragraph 1 of the Concise Statement of the Applicant and adds that at all relevant times the Applicant has not been independent of other agencies of the Crow because of execution of inter-agency MOUs thereby nullifying the checks and balances inherent to *the Commonwealth of Australia Constitution Act 1900 (AU)* (“**The Constution**”).

Filed on behalf of (name & role of party)	The Respondent/ Cross Claimant		
Prepared by (name of person/lawyer)	Andrew Garrett		
Law firm (if applicable)			
Tel	0450 831 708	Fax	02 9617 7125
Email	amg@betterworldfuturefund.org		

Address for service

(include state and postcode) Unit 3/ 11 Harvey Street, Nailsworth, South Australia, 5083

2. The Respondent denies Paragraph 2 and repeats paragraph 1 above.
3. The Respondent admits Paragraph 3 until 27th July 2023 and adds that all relevant times Dynamic Capital Bank ABN 97 236 690 409 has lodged Monthly Activity Statements and Annual Income Tax Returns under Tax File Number 676854575 in accordance with law between the 5th of January 2016 and 30th June 2022 and Financial Transaction Reports with Austrac account Number 100813420 and
 - a. Banque de Capital Dynamique is registered with the Applicant as ABN 91 135 831 277 with Tax File Number 676858322 with Austrac Account Number 100817092
 - b. Banca Di Como is registered with the Applicant as ABN 34 150 236 795 with Tax File Number 676859973 with Austrac Account Number 100817084
4. The Respondent denies Paragraph 4 and repeats paragraph 1 above.
5. The Respondent denies Paragraph 5 and repeats paragraph 1 above.
6. The Respondent denies Paragraph 6.
7. The Respondent denies Paragraph 7.
8. The Respondent denies Paragraph 8.
9. The Respondent denies Paragraph 9.
10. The Respondent denies Paragraph 10.
11. The Respondent denies Paragraph 11.
12. The Respondent cannot admit or deny Paragraph 12.
13. The Respondent denies Paragraph 13.
14. The Respondent denies Paragraph 14.
15. The Respondent denies Paragraph 15 in so far as the Applicant purports to have Jurisdiction outside of Australia and adds that at all relevant times between.
 - a. the 18th of May 2016 and 30th June 2022 the Businesses referred to in paragraph 3 were operated remotely in the Tax Jurisdiction of Hong Kong
 - b. the 1st of July 2022 and today's date the Businesses referred to in paragraph 3 were operated remotely in the Tax Jurisdiction of Hong Kong
16. The Respondent cannot admit Paragraph 16 and adds that at no time has the Respondent been in control of the website.
17. The Respondent denies Paragraph 17.

18. No response required to paragraph 18.
19. The Respondent denies Paragraph 19.
20. The Respondent denies Paragraph 20 and adds that the relevant authority has been obtained and that in so far as the applicant denies that authority has been obtained then the Applicant's position is Ouster Office and the provisions of s20 and s21 of the Charter of the United Nations Act 1945 (AU) applies in compensation payable to the Respondent.
21. The Respondent admits that the Trustees of the businesses referred to in paragraph 3 and OenoViva Capital Resources ABN 42 388 204 496 ("The Trustees") carry on the business of banking in a manner that is confined solely to the issuing of UNCITRAL International Bills of Exchange for the purpose of Trading and Lending Financial Resources that are solely the property of the Trustees AND that the Respondent is not a Trustee.
22. The Respondent admits Paragraph 22 and adds that the Trustees hold Financial Services Licenses issued by ASIC as follows:
- a. Dynamic Capital Bank: 000543541
 - b. OenoViva Capital Resources: 000538443
23. The Respondent denies Paragraph 23 and adds that the Applicant in bringing this application has failed to exercise discretionary public powers in a manner that is solely in the Public Interest as a breach of the Public Trust such that the application is a nullity incapable of existing at law.
24. The Respondent denies Paragraph 24 and adds that the Trustees.
- a. donated 33% of the assets and accrued rights of OenoViva Capital Resources on the 30th of April 2017 to the Trustees of the Australian People Future Fund 26 317 275 322 Tax File Number 456927258 trading as the Better World Future Fund naming the Citizens of Australia as the Beneficiaries of the Fund while excluding the Garrett Family Members from being beneficiaries for the purposes set out in the resolution of the Board of Trustees of that date.¹
 - b. Terminated the office of the Attorney General of Australia and varied the terms of settlement of the Better World Future Fund on the 4th August 2020 ²such that the beneficiaries of the Fund included:
 - i. The citizens of the World who are fit and proper persons.
 - ii. The governments of the Member Nations of the Commonwealth and the United Nations.

¹ **AMG 602**; Resolution of OenoViva Global Board of Trustees creating Australian People Future Fund 33% assets and rights 30.04.2017.

² **AMG 1915** THE SECOND ENACTMENT CORRIGENDUM AMG and Ors terminating Australian Attorney General variation of Aust People Future Fund

iii. Such that Public Interest working Capital trusts were created in equity for the benefit of 195 Member Nations and 2,465 States/ Territories/ Provinces of those member Nations.

c. Registered the following Public Interest Working Capital Trusts.

- i. The Trustee for The Oenoviva (Australian Capital Territory) Public Interest Working Capital Hybrid Trust ABN 99 283 143 308
- ii. The Trustee for The Oenoviva (New South Wales) Public Interest Working Capital Hybrid Trust ABN 24 835 616 043
- iii. The Trustee for The Oenoviva (Queensland) Public Interest Working Capital Hybrid Trust ABN 14 633 501 568; TFN 584159838
- iv. The Trustee for The Oenoviva (Victoria) Public Interest Working Capital Hybrid Trust ABN 11 780 025 954; TFN 585326314
- v. The Trustee for The Oenoviva (Tasmania) Public Interest Working Capital Hybrid Trust ABN 93 129 830 849; TFN 585354198
- vi. The Trustee For The Oenoviva (South Australia) Public Interest Working Capital Hybrid Trust ABN 31 820 200 700; TFN 585451795
- vii. The Trustee for The Oenoviva (Northen Territory) Public Interest Working Capital Hybrid Trust ABN 75 189 759 391; TFN 562363339
- viii. The Trustee for The Oenoviva (Western Australia) Public Interest Working Capital Hybrid Trust ABN 54 169 218 172; TFN 585353671
- ix. The Trustee for The Oenoviva (Australia: National Debt Repayment Scheme) Public Interest Working Capital Hybrid Trust ABN 84 136 965 953; TFN 584172730
- x. The Trustee for The Oenoviva (Australia: National Redress Scheme) Public Interest Working Capital Hybrid Trust ABN 18 257 863 087; TFN 584173659
- xi. The Trustee for Oenoviva (Colorado) Public Interest Working Capital Hybrid Trust
- xii. The Trustee for Oenoviva (Wyoming) Public Interest Working Capital Hybrid Trust
- xiii. The Trustee for Oenoviva (District Of Columbia) Public Interest Working Capital Hybrid Trust
- xiv. The Trustee for Oenoviva (Florida) Public Interest Working Capital Hybrid Trust

25. The Respondent denies Paragraph 25.

26. The Respondent denies Paragraph 26.

27. The Respondent denies Paragraph 27 and adds that the purpose of the FCS is to mislead the Public into believing that there is a valid and bona fide scheme to provide for an effective right of remedy (which is denied)

28. The Respondent denies Paragraph 28 and adds that at all relevant times the Applicant has acted in a manner that is in breach of the Public Trust to exercise discretionary public powers conferred upon it in a manner that is in the Public Interest.

29. The Respondent denies Paragraph 29 and repeats paragraph 28.
30. The Respondent denies Paragraph 30 and adds that the Trustees are indemnified by the assets of the Trust in respect to claims made against it;
- a. No such claims have been made and there is no call upon the FCS.
 - b. The assets of the Trusts exceed the assets of the FCS guaranteed by The Crown (Liquidator and Managing Controller Appointed)

The Important Facts given in Cross Claim/ Counter Claim

31. At all relevant times since Federation of the States and Territories of Australia.
- a. There is only One Crown³ relevant to *the Commonwealth of Australia Constitution Act 1900 (UK)*⁴.
 - b.
 - c. Invalid and/or Unlawful conduct of Public Officials engaged by the Crown, in all of the rights of the Crown, has been the subject of the Common Law right to an effective Remedy for benefit of the wronged party and that Remedy was and remains calculated to be 3 times the amount of the Financial Claim (“**the Model Litigant Penalty**”).
 - d. At all relevant times the amount of the Financial Claim was and remains calculated as the amount set out at paragraph 31(a) plus the amount of the Model Litigant Penalty multiplied by the amount that would otherwise have been earned by the wronged party by investment in a Private Placement Bullet Program of 15% per day, compounding.
 - e. Unlimited Financial Resources have always been available to the Crown to fund the Right to Remedy by download from the International Monetary System executed by the Reserve Bank of Australia (Liquidator and Managing Controller Appointed) (“**The RBA**”) under the provisions of *the Reserve Bank of Australia Act 1959 (AU)* (“**The RBA Act**”) subject to the provisions of the Treaty Agreement establishing the International Monetary Fund (“**The IMF**”)⁵ which specific performance has at all relevant times been guaranteed by;
 - i. Australia⁶
 - ii. The Crown, in all the Rights of the Crown (Globally), as guarantor to Australia.
32. In so far as amendments have been purported to be made to the following enactments are invalid and unlawful exercises of the Legislative Discretionary Public Powers of conferred upon Public Officials making up the relevant Legislatures:
- a. *The Constitution Alteration (State Debt) Act 1928 (AU)*
 - b. *The Statute of Westminster Act 1931 (UK)*
 - c. *The Westminster Adoption Act 1942 (AU)*

³ **AMG 29** Sue v Hill [1999] HCA 30 - Crown of the United Kingdom of Great Britain and Ireland & The Commonwealth; **AMG 28**; Australia The Concealed Colony.

⁴ **AMG 25**; The Constitution Notes and Index

⁵ **AMG 31** Articles of Agreement of International Monetary Fund

⁶ **S77** of the RBA Act

- d. *The Law Officers Act 1964 (AU)*
- e. *The Privy Council (Limitation of Appeals) Act 1968 (AU)*
- f. *The Privy Council (Limitation of Appeals from the High Court) Act 1968 (AU)*
- g. *The Solicitor General Acts 1972 (SA) and equivalents.*
- h. *The Australia Acts (Request) Act 1985 AU, NSW, VIC, QLD, TAS, WA, SA)*
- i. *The Australia Act 1986 (UK)*
- j. *The Australia Act 1986 (AU)*
- k. The Enactment of the Australian Cabinet ⁷ purportedly abolishing the role of Champion of the Public Interest as a role inherent to the Office of the Attorney General.

33. Nothing in the aforementioned enactments abolished.

- a. The Common Law and Statutory Obligation of the Attorney General to act as Champion of the Public Interest
- b. The Common Law Right of Judicial Review by the King in Council.
- c. The Common Law Right to an effective Remedy.
- d. Equity.
- e. The Common Law generally.

34. I, the Respondent.

- a. Was born on the 11th April 1957 at which time the Crown registered a Personal Property Security Interest in my Estate under the provisions of *the National Debt Act 1870 (UK)* and *the Cestui Que Vie Trust Act 1666 (UK)* that was given registration number 40591602 that was registered on the 17th April 1957.
- b. The Personal Property Security Interest referred to above was at all relevant times a two-way personal property security interest registering my Statutory and Equitable Rights and Charges over the assets of the Crown represented by the Constitutional Monarch.
- c. Those Rights and Charges were defined by the Constitutional Monarch and enacted on Commonwealth Day 2013 and referred to as *the Charter of the Commonwealth 2013 (Regina)* being a writ of mandamus to all Citizens guaranteeing the Rights, Duties and Obligations of Sovereign State Members of the Commonwealth and acknowledged to be binding by the Commonwealth Heads of Government in:
 - i. The 2013 CHOGM Communique
 - ii. The 2018 CHOGM Communique
- d. A second Personal Property Security Interest in favour of the Crown in 1973, in right of the State of South Australia, was registered when I received my Driver's License given registration number 928918.
- e. A Third and Fourth Personal Property Security Interest was registered by the Crown, in Right of the Commonwealth, upon granting of my:
 - i. Australian Passport (registration numbers as varied over time) No PB3199767
 - ii. UK Passport No 538401308

⁷ AMG 15e Annexure 1

- f. commenced as a sole trader employee during school holidays during 1973 at the age of 16.⁸
35. At all relevant times since my birth my intellectual property as a Financial Asset that was my personal property until the merging of Assets creating TAGFILT was the amount attributed on a Willing Buyer and Willing Seller⁹ basis being € 1,851,018,938,850.
36. The Legal Services Sector comprising Public Official licensees of the Constitutions of the States and Territories of Australia, as saved under the Constitution have not now, and have never been, the subject of a Royal Commission and/or Parliamentary Inquiry.
37. Successive Commonwealth, State and Territory Attorney Generals and/or Solicitor Generals have been in default of the Common Law due to act as Champion of the Public Interest.
38. Any and all purported “Constitution Acts” of States allegedly enacted after the 1st January 1901 are void being nullities at law.¹⁰
39. Until 1975 the Courts and Tribunals of the States and Territories of Australia were responsible for the exercise of Federal Judicial and Quasi-Judicial Public Powers however due to the Corruption, Anarchy and Chaos prevailing until that time the Parliament of the Federation enacted:
- a. *The Administrative Appeals Tribunal Act 1975 (AU)*
 - b. *The Federal Court of Australia Act 1976 (AU)*
 - c. *The Administrative Decisions Judicial Review Act 1977 (AU)*
40. The Andrew Garrett Family Irrevocable Living Trust (“TAGFILT”) was established on the 28th of February 1981 by the two founding trustees, Andrew Morton Garrett and Aerial Gay Baker,¹¹ at which time the Income, Financial Assets and Intangible Financial Assets as Freezable Financial Assets with the meaning of *the Charter of the United Nations Act 1945 (AU)* merged.
41. The Andrew Garrett Group Pty Ltd ACN 008 018 602¹² (“TAGGC”) was incorporated under South Australian Corporations Law on the 18th July 1983 as the Corporate Trustee of TAGFILT replacing the Founding Trustees as the Sole Trustee of TAGFILT with the Founding Trustees as the Sole Directors.
42. On a date that is not known to me ASIC undertook an investigation of TAGGC and caused records to be removed from the Public Record of TAGGC in order to conceal from the Public View events between the date of Incorporation and 29th May 1990 that would result in a significant financial claim under the FCS in the hands of the Beneficiaries of TAGFILT.

⁸ **AMG 427b**; Chronology Statement of AMG dated March 2000 scanned 19062007 for SSCIV-1996-2244; **AMG 427c**; Chronology and Corruption of the Crown brief for Counsel in AMC-18-5575

⁹ **AMG 3464** DMRL License pricing by Territory; based on arm's length purchaser for value 12.08.2021.

¹⁰ **AMG 4009** NSD-741-2023 SEALED Filed CHRONOLOGY OF CORRUPTION OF THE CROWN SINCE PRIOR TO FEDERATION; PART 1, PART 2 AND PART 3

¹¹ **AMG 6560** TAGFILT; BWFF Information Statement; OENOVIVA CAPITAL RESOURCES, dated 4th April 2023 and annexures.

AMG 7229 NSD-741-2023 SEALED Filed Affidavit of Andrew Morton Garrett dated 13th Feb 2023.

¹² **AMG 3189** The Andrew Garrett Group Pty Ltd (nee the Wine Co Pty Ltd) ACN 008 018 602 ASIC Historical Company Search as at 17th March 2021

43. At all relevant times between December 1987 and 29th May 1990 Price Warehouse Coopers (“PWC”) was the Accounting Financial Services provider of TAGFILT and TAGGC.
44. On the 19th of December 2022 I served a Notice of Crystallisation of Charges and Seizure of Collateral on PWC which quantified the amount of the FSC Claim against the Crown and the Partners of PWC.¹³
45. None of the Partners of PWC or Agencies of the Crown have disputed
46. Dentons South Australian Office was previously known as Fisher Jeffries Lawyers whose partners have:
- a. Been members of the Legal Practitioners Conduct Board and illicitly and unlawfully blocked inquiries into complaints by the Public at Large as Clients of Professional Misconduct and Serious Professional Misconduct within the meaning of *the Legal Practitioners Act 1981 (SA)*.
 - b. Prepared major transaction agreements on my instructions in relation to:
 - i. The Remirement purchase of issues capital in TAGGC in its capacity as Bare Trustee of TAGFILT which agreement allowed for the subscription of \$1,500,000 in new capital by the Shareholders of Remirement following the disastrous fire on 18th March 1988 at the Magill Cellars owned by TAGFILT.
 - ii. The TAGGC Shareholders Agreement dated 1988 between Remirement Limited, Fanshire Pty Ltd, A.V. Fletcher and Associates Pty Ltd, Andrew Garrett and Averil Garrett.
 - iii. The Remirement Share Sale Agreement dated 1990 to Suntory Holdings Limited subsidiary Suntory Australia Pty Ltd.
 - iv. The TAGGC Shareholders Agreement dated 1990.
 - c. Guilty of serious professional misconduct being Grand Corruption/ Fraudulent Trading/ Money Laundering/ Terrorism Financing/ Treason within the meaning of *the Insolvency Act 1986 (UK)*, *the Legal Practitioners Act 1981 (SA)*, *the Criminal Law Consolidation Act 1935 (SA)* the Common Law and the Constitution.
 - d. Conspired with the Partners of Phillips Fox Lawyers against the rights of the Trustees of TAGFILT, personally and in their Trustee Capacity
47. Dentons New South Wales Office was previously known as Gadens Lawyers whose partners have:

¹³ **AMG 5969** PRICE WATERHOUSE COOPERS; Notice of Crystallisation of PPSA Interests; Seizure and Retention of collateral; 19.12.2022

- a. Been members of the NSW Law Society and illicitly and unlawfully blocked inquiries into complaints by the Public at Large as Clients of Professional Misconduct and Serious Professional Misconduct within the meaning of *the Legal Profession Uniform Law 2004* (NSW) and predecessor Legislation.
- b. Prepared major transaction agreements on my instructions in relation to:
 - i. The Remirement Share Sale Agreement dated 1990 to Suntory Holdings Limited subsidiary Suntory Australia Pty Ltd
 - ii. The TAGGC Shareholders Agreement dated 1990.

48. Finlaysons Lawyers represented by John Short- Smith, Partner.

- a. were appointed by me along with Steven Young of Arthur Anderson Consulting and Chris Brown of N. M. Rothschild and Sons (Australia) Limited to investigate the Conduct and Decisions of Public Officials and Foreign Public Officials engaged by PWC, Remirement, Fanshire, Suntory, Cellarmasters Wines, Mildara Blass Limited, Related Parties, Dentons Lawyers and Fisher Jeffries in respect to the above-described transactions and the offer by Suntory to sell its shares in TAGGC back to me in circumstances where the assets of TAGGC had already been stripped from TAGGC by the Management employees, Related Parties and Suntory as Terrorism Financing and Money Laundering within the meaning of the Common Law ¹⁴
- b. Have refused to disclose under the duty to disclose ¹⁵incumbent upon Public Officials the full details of the investigations referred to above,
- c. Caused me to sign a Settlement Agreement dated 26th July 2000 with Mildara Blass Limited that also related to the Consent to the Assignment of the Garrett Family License from Tatachilla Winery Pty Ltd Limited to Mildara Blass Limited.
- d. Acted negligently in failing to enforce the payments due under the settlement agreement as two separate income streams due to;
 - i. Nictom Pty Ltd as the Founding Trustee of the Garrett Family Trust, and
 - ii. me personally

49. Complaints of Serious Professional Misconduct as defined by the relevant enactments of Lawyers briefed by me by the relevant agency between 1988 and today's date has a common pattern of conduct referred to by me as the Bethcar Strategy.¹⁶

50. At all relevant times "Agencies" and "Designated Agencies" within the meaning of the AML/CTF Act 2006 (AU) have failed to exercise discretionary public powers conferred under

¹⁴ **AMG 7263** Common Law Legal Systems Model Legislative Provisions; Commonwealth Secretariat

¹⁵ **AMG 4319** Finlaysons; John Short Smith to AMG re access to files 05.06.07

¹⁶ **AMG 4124** NO UTILITY TO SIGNING TREATIES WITH THE AUSTRALIAN GOVERNMENT (2)

enactments in the Public Interest as a Public Trust and in respect to Designated Agencies have undertaken surveillance of me since at least 20th July 2002 when *the Registrar of the Real Property Act 1898* (SA) released duplicate certificates of title related to properties controlled by me unlawfully and invalidly incurring liability under s8 of *the Registration of Deeds Act 1936* (SA).

51. At all relevant times in respect to all International and Domestic Relations the Member Federated State of Australia and its Member States and Territories have been and continue to be bound by:
- a. The duties and rights set out in the *Montevideo Convention on Duties and Rights of States* 1936 (League of Nations)
 - b. *The Charter of the United Nations* 1945 (UN) **ATS 1** has been enacted into Australian domestic law as the schedule to *the Charter of the United Nations Act 1945* (AU)
 - c. *The Articles of Agreement of the International Monetary Fund* [IMF] [1947] ATS 11
 - d. Resolution 2200A (XXI) of 16 December 1966 of the United Nations General Assembly giving rise to;
 - i. *The International Covenant on Civil and Political Rights* (ICCPR), [1980] ATS 23
 - ii. *Optional Protocol to the International Covenant on Social Economic and Cultural Rights*. [1991] ATS 39
 - iii. *The International Covenant on Economic, Social and Cultural Rights* (ICESCR), [1976] ATS 5
 - iv. *Optional Protocol to the International Covenant on Economic Social and Cultural Rights* [2013] INCOMPLETE
 - e. Resolution 2205 (XXI) of 17 December 1966 of the United Nations General Assembly, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade.
 - i. The UNCITRAL Convention on International Bills of Exchange and Promissory Notes 1980 (UN) INCOMPLETE
 - ii. Amongst other Trade Law Treaties
 - f. Resolution 52/158. UNCITRAL Model Law on Cross-Border Insolvency (1997) of the United Nations Commission on International Trade Law (“The Model Law”)
 - g. *The Vienna Convention on Succession of States* 1978

- h. *Multilateral Convention on Combating Bribery of Foreign Officials in International Business Transactions*. [1999] ATS 21
- i. *Agreement for the Establishment of the Anti-Corruption Academy as an International Organization* [2012] ATS 27
- j. *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment* (CAT),
- k. Resolution 68/107. Revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency and part four of the Legislative Guide on Insolvency Law of the United Nations Commission on International Trade Law as adopted by the General Assembly on 16th December 2013.
- l. The Model Law was enacted into Australian Domestic Law in *the Cross Border Insolvency Act 2008* (Au) subsequently *the Personal Property Security Act 2009* (Au) was enacted to allow for registration of personal property security interests arising under the Model Law.
- m. The *Uniform Commercial Code* (UCC) of the United States of America has been adapted to incorporate the Model Law and allow for registration of Personal Property Security Interests on the States Registries of Deeds in respect to Negotiable Financial Instruments and in particular Bills of Exchange.

52. *The Magnitsky Act 2012* (US) as expanded 2016 refer paras

- a. Formally viewed as non-criminal measures, targeted sanctions are normally imposed based on permissive evidential standards, such as that of ‘credible evidence’ (*US Global Magnitsky Act 2016*, s 1263(a)) or ‘reasonable grounds to suspect’ (*Sanctions and Anti-Money Laundering Act 2018* (UK), ss 11(2) and 12(5)), which are far lower than either the criminal or civil standard of proof.
- b. Australia’s current sanctions framework does not provide for any particular evidential standard but, as described below, vests virtually unlimited discretion in the government.
- c. In doing so, these sanctions edge close to the domain of criminal justice, with its established legal safeguards (e.g. the presumption of innocence) and policy expectations (e.g. the prioritization of serious misconduct and minimisation of political interference with law enforcement work).
- d. Surprisingly, governments worldwide have invested little thought into these issues. The UK appears to be the only country to have published a (very concise) statement of principles articulating the role of corruption sanctions in its overall law enforcement efforts. The typical approach, and one taken up by the Australian government in its response to the JSCFADT’s report, *is to utter the magic words ‘foreign policy’ and thereby make most legal and policy concerns disappear*, doing so obscures rather than resolves the key issues the government will have to confront.
- e. As the Parliamentary Joint Committee on Human Rights notes, this extraordinary amount of discretion renders judicial review nugatory because there is no standard to measure the government’s decision against.

- f. Australia's current sanctions regime is therefore even less friendly to sanctions challenges than the US system, which has been rightly described as affording 'minimal' opportunities for judicial review.
- g. A more appropriate conception of corruption and human rights sanctions is as a tool to address egregious wrongdoing that would not ordinarily be within Australian criminal jurisdiction, as well as ensure that Australian individuals and companies do not do business with some of the worst '**bad actors**'. This is precisely the vision of sanctions that the JSCFADT's report evinces. This vision manifests itself, for instance, in the recommendation that sanctions, be limited to non-Australian citizens, consistent with near-universal state practice. This, too, was met in the government's response with a 'noted', accompanied by the obligatory reference to the Minister for Foreign Affairs' discretion.
- h. The prevailing view among policymakers and sanctions experts has been that sanctions are a priori a foreign policy tool aimed at inducing 'behavioural change' by the target. To speak of other objectives of sanctions, such as punishing the perpetrators of horrible crimes, is on that view an intellectual faux pas.
- i. The upcoming overhaul of Australia's sanctions framework offers an opportunity to take stock of the international experience and develop a world-leading sanctions policy, especially in relation to corruption and human rights sanctions. Doing so will require a degree of clarity about what such sanctions are intended to achieve and how they will be wielded. Openness about what one will do in the future equals commitment, and so far this seems in tension with the government's eagerness to preserve room for manoeuvre
- j. In the end, though, a credible and effective application of sanctions will require a clarity of purpose and consistency in application, which can only be attained by determining how sanctions can best serve legitimate criminal justice objectives, including the punishment of perpetrators and disruption of criminal networks.
- k. Formulaic references to sanctions as a 'foreign policy tool' are, on the other hand, of limited utility.

53. The term "Public Official" and "Foreign Public Official" has the meaning prescribed in the *Convention against Corruption* (2006) **ATS 2** and predecessor treaties.

54. In the period prior to the establishment of ASIC in 1990;

- a. the States and Territories were responsible for enacting legislation in respect to regulating Corporations and Regulations of Public Officials engaged in;
 - i. The Legal Services Sector
 - ii. The Accounting Services Sector
 - iii. The Banking Services Sector
- b. the Corporations Regulators of the States and Territories demonstrated that Self-Regulation was Mis Regulation which led to the Federal Parliament establishing ASIC to independently regulate the State based Corporations regimes.

55. Continued anarchy and chaos (Lawlessness) in the Commonwealth, States and Territories relating to registration of Corporations, Businesses, Deeds and Tax Collection led to the Federal Parliament enacting.

- a. *A New Tax System (Tax Administration) Act 1999*
- b. *A New Tax System (Goods and Services Tax) Act 1999* (AU)
- c. *A New Tax System (Australian Business Number) Act 1999* (AU)
- d. *A New Tax System (Pay As You Go) Act 1999*

JUDICIAL REVIEW AS A COMMON LAW RIGHT

56. A Royal Commission and/or Parliamentary Inquiry is needed into the role of the Legal Services Sector in Money Laundering and Terrorism Financing in which regard this Cross Claim and Counterclaim serves as an Application for Judicial Review of the Conduct and Decisions of all Agencies, Public Officials and Foreign Public Officials in matters related to the Respondent¹⁷ ; the evidence shows that the current inquiry by the Attorney Generals Department into Modernising will perpetuate the “Fake Regulation” found in the Hayne Royal Commission into the Financial Services Sector published on the 1st February 2019 evidenced that the Public Officials engaged as Servants, Officers, Agents, Employees, Delegates and/or contractors of Agencies¹⁸ responsible for regulating that sector were not fit for purpose and were in default of their role as Public Officials

57. The Incumbent Attorney General of Australia, Mark Dreyfus:

- a. delivered a speech to the Federal Legislature in respect to the Judicial Incapacity and Misbehaviour (Parliamentary Inquiry) Bill 2012 that was subsequently enacted.¹⁹
- b. was the Attorney General in Office between February and September 2013 at which time he was appointed as a Special Minister of State.
- c. Was responsible for tabling and enacting enactments that were contrived to defeat the Public Interest and the provisions of the Charter of the Commonwealth namely;
 - i. *The Public Governance Performance and Accountability Act 2013* (AU)
 - ii. *The Public Interest Disclosure Act 2013* (AU)

58. At all relevant times between at least 1964 and today’s date the Solicitor Generals of the Commonwealth, States and Territories of Australia²⁰ and Judicial Public Officials appointed under various Court Enactments have wilfully breached the principles of Separation Powers enshrined in the Constitution in a manner that caused harm to the Constitutional Monarch being Grand Corruption as High Treason.

¹⁷ **AMG 9**; Public Law an Australian Perspective French CJ delivered 6th July 2012

¹⁸ Withing the meaning of *the Anti-Money Laundering and Counter Terrorism Financing Act 2006* (AU) and

¹⁹ **AMG 337**; House of Representatives Speech- Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012 - Mark Dreyfus QC MP

²⁰ **AMG 5780** The Constitutional Role of Solicitor General by Gabrielle Appleby 28.09.2012

59. On the 31st March 2023 I requested that the Commonwealth Solicitor General Mr Stephen Donaghue represent me in DCCRM-0073-2019 following the termination of appointment on the 1st January 2023 of the Director of Legal Services Commission of South Australia and Mr Scott Laidlaw of Matthew Mitchell Solicitors for failing to act in accordance with my instructions.
60. The Solicitor General has been deemed to refuse my request to act under the provisions of *the Law Officers Act 1964* (AU).
61. The Australian Government Solicitor, Mr Michael Kingston, has refused to represent me in US Proceedings in the UD Federal District Court for the District of Colorado and the State of Colorado District Court as notified in my Complaint to the incumbent Prime Minister, Mr Anthony Albanese on the 4th July 2022 which email in 7 parts referred to the following case numbers;
- a. US Federal District Court Case No; 1;22-CV-00173-DDD-STV; *Garrett et al [sic.] v Garrett et al [sic.]*
 - b. US Federal District Court Case No; 1;22-CV-00206-DDD-STV; *Garrett et al [sic.] v Bankrupt Estate of Jersey Green & Ors*
 - c. US Federal District Court Case No; 1;22-CV-00243-DDD-STV; *Garrett v Secretary General and Secretariat of the United Nations (Liquidator and Managing Controller Appointed) & Garrett et al [sic.]*
 - d. US Federal District Court Case No; 1;22-CV-00254-DDD-STV; *Garrett et al [sic.] v Suntory Holdings Limited [sic.] and Garrett et al [sic.]*
 - e. Colorado District Court Case No 2020CV30030; *Esch & Garrett v Precious & State of Colorado (Liquidator and Managing Controller Appointed) & Carbonhelix LLC (Managing Controller Appointed)*
 - f. Colorado Court of Appeals No 22CA229; *Esch & Garrett v Precious & State of Colorado (Liquidator and Managing Controller Appointed) & Carbonhelix LLC (Managing Controller Appointed)*
62. At all relevant times Public Officials engaged in Australia by Agencies and Designated Agencies have breached the principals of Rule of Law, Freedom of Speech, Separation of Powers, Privacy and communicated with Foreign Public Officials engaged by the United States of America interfering with the principle of “**Ex Debito Justitiae**”²¹ owed by the United States of America to me as a personal property security interest registered with the above mentioned courts.
63. On the 28th of August 2023 a Decisionmaker for the Department of the Attorney General made a Decision concerning an FOI application lodged by me and did not provide with the email delivery of that decision a copy of attachments “C” referred to in the Decision which complaint was first marked to the attention of Ms Susan Kiefel as a result of my complaint against the High Court to issue the proceedings marked as a Summons to Show Cause²² with Lodgement

²¹ **AMG 1307**; Regina V Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet; Wikipedia Summary
AMG 1308a; Regina V Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet (1998) UKHL 41
AMG 1308b; Regina V Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet (1999) UKHL 2
AMG 1309; Regina V Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet (1999) UKHL 17
²² **AMG 7078** Form 12- Summons to Show Cause Crown Attorney General v Johnson and Ors

Reference HCADLS0035922 and subsequently to the attention of the Chief Justice of the High Court of Hong Kong in respect to current proceedings that are on foot in that Honourable Court.²³

64. It is not possible for any Common Law Court to enact Court Rules that avoid the duties and obligations of Public Officials to prepare affidavit Materials as to why a Constitutional Writ of any kind should not be issued.
65. Subsequent requests for review of the deemed refusal to disclose attachment “C” have also been deemed to be refused by parties representing the Attorney General including Public Officials employed under the provisions of the Public Service Act 1999 (Cth) by the Office of the Director of Public Prosecutions and the relevant Code of Conduct mandated under the provisions of the UN Convention against Corruption (2006) ATS 2.
66. S69(2A) of *the Judiciary Act* 1903 (AU) as enacted in 1983 is invalid and unlawful as it seeks to sidestep the duty and obligation of the Attorney General to act as Champion of the Public Interest being evidence of Erosion of Traditional Common Law Rights and Freedoms by Commonwealth Laws.²⁴
67. I have engaged this Court’s Tribunal obligation to inquire and exercise Judicial Discretionary Public Powers Conferred under Enactments in the Public Interest as Public Trust.
68. At all relevant times during my 50 years of Trading it has been my experience that Australian Public Officials and American Public Officials have traded Fraudulently within the meaning of *the Insolvency Act* 1986 (UK) being acts of Insolvency and liability attributing to the Directors of Australia as a Corporation also registered with the United States Security Exchange Commission CIK; 0000805157 (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED) ABN 86 150 409 985; ABN 98 724 451 651 AUSTRAC ACCOUNT No: 100817296.
69. The Crown, in all of the rights of the Crown is estopped from denying the facts set out above along with my capacities as disclosed in the materials evidenced in the Public Interest Disclosure Drive at the address as notified within the evidence entered on the court file.
70. On grounds that Notice to Agent is Notice to Principal and Vice Versa I deny the certification of pleadings prepared by Ms Lucinda McCann as Lawyer for the Applicant was prepared by Ms McCann on a Proper Basis and in fact is a breach of the Public Duty to disclose all relevant facts and evidence to this Honourable Court being Serious Professional Misconduct as Fraudulent Trading within the meaning of *the Legal Profession Uniform Law* NSW (2004).

Declared by the Respondent and Cross Claimant as being the proper basis to present some but not all of the relevant materials and Facts to this Court on Monday, 11 December 2023.

Andrew Garrett

²³ **AMG 7077** Letter to Judicial Clerks of The High Court of Hong Kong 22nd September 2023

²⁴ **AMG 1744**; Traditional Rights and Freedoms- Encroachments by Commonwealth Laws ALRC 129

ANNEXURE 4**NOTICE OF FILING****Details of Filing**

Document Lodged:	Non-Prescribed Notice/Request
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	6/12/2023 9:23:57 AM AEDT
Date Accepted for Filing:	6/12/2023 9:23:59 AM AEDT
File Number:	NSD741/2023
File Title:	AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY v ANDREW MORTON GARRETT
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 1 Notice of filing of application for recognition of foreign proceeding

(rule 15A.6)

Federal Court of Australia

No. NSD 741 of 2023

District Registry: NSW

Division: Corporations

IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED), ABN 50 785 365 455 (“THE CROWN”)

AUSTRALIAN PRUDENTIAL REGULATORY AUTHORITY
ABN 79 635 582 658 (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)
ABN 33 446 145 662

The Plaintiff, Defendant by Counterclaim

&

ANDREW MORTON GARRETT,

- **CROWN ATTORNEY GENERAL ABN 25 582 859 403,**
- **TRUSTEE OF THE OFFICE OF THE CROWN ATTORNEY GENERAL TRUST ABN 33 785 287 219**
- **LIQUIDATOR, AND MANAGING CONTROLLER, BENEFICIARY OF PRIVATE AND PUBLIC TRUSTS, PRIOR TRUSTEE SECURED BY LIEN ABN 70 432 067 434**
- **TRUSTEE OF A LETTER TO MY SONS TRUST ABN 90 243 103 687**
- **SECURED PARTY CREDITOR, REGISTRATION NUMBER 40591602**

The Defendant/Respondent, Plaintiff by Counter Claim and Plaintiff by Cross Claim

&

OTHERS NAMED IN THE EXHIBITS PRODUCED AND MARAKED AS;

- **AMG 6776**
- **AMG 6867**
- **AMG 6793**
- **AMG 7015**

Filed on behalf of (name & role of party)	The Respondent
Prepared by (name of person/lawyer)	Andrew Garrett
Law firm (if applicable)	
Tel 0450 831 708	Fax 02 9617 7125
Email amg@betterworldfuturefund.org	

Address for service

(include state and postcode) Unit 3/ 11 Harvey Street, Nailsworth, South Australia, 5083

Form 20 Notice of filing of application for recognition of foreign proceeding

(rule 15A.6)

IN THE HIGH COURT OF HONG KONG

No. 1855 of 2022

THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)

ABN; 50 785 365 455

TO all the creditors of THE CROWN

TAKE NOTICE that:

1. An application under the *Cross-Border Insolvency Act 2008* for recognition of a foreign proceeding in relation to THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED) was commenced by the plaintiff, ANDREW MORTON GARRETT on 11th NOVEMBER 2022 and will be heard by The Justice presiding at No.38 Queensway, Admiralty, 1/F, High Court, CENTRAL, SAR HONG KONG at TO BE ADVISED . Copies of documents filed may be obtained from the plaintiff's address for service.
2. The plaintiff's address for service is 3/ 11 Harvey Street Nailsworth SA 5083.
3. Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and any affidavit on the plaintiff at the plaintiff's address for service at least 3 days before the date fixed for the hearing.
4. If you are a foreign creditor you must file in the registry of the Court at the address mentioned in paragraph 1 an affidavit setting out the details of any claim, secured or unsecured, that you may have against the company above at least 3 days before the date fixed for the hearing.

Date: 6th December 2023

Name of plaintiff or plaintiff's legal practitioner: ANDREW MORTON GARRETT

A handwritten signature in black ink that reads "Andrew Garrett". The signature is written in a cursive, flowing style.

ANNEXURE 14

Evan Whitton was Editor of *The National Times*, Chief Reporter at *The Sydney Morning Herald*, and Reader in Journalism at Queensland University. He received the Walkley Award for National Journalism five times, and was Journalist of the Year 1983 for 'courage and innovation' in reporting an inquiry into judicial corruption. He began researching the West's two legal systems in 1991 after observing how each system dealt with the same criminal, police chief Sir Terence Lewis. He is now a columnist on a legal journal, *Justinian* This is his eighth non-fiction book

Whitton's work noticed

'A dazzling writer, incisive and addictive'. – **Dr George Miller, director *Babe, Happy Feet***.

Trial by Voodoo (1994)

'The only book in the language that critically examines the law as a whole.' – **Professor Alex Ziegert, Sydney University**.

The Cartel (1998)

'Evan Whitton has said, with I think consummate wisdom: "Truth and justice require ... the abolition of rules for concealing evidence.'" – **Sir Laurence Street, former Chief Justice, NSW**.

'Whitton has a remarkably extensive knowledge of the legal system and the way it works ... rich in anecdote ... a wealth of historical knowledge and research ... His insights are always valuable...' – **Justice Ian Callinan, High Court of Australia**.

Serial Liars (2005)

'... confronts all the major lawyer arguments, and disposes of them.' – **Brett Dawson, former Crown Prosecutor**.

Other books by Evan Whitton

Can of Worms (1986)

Amazing Scenes (1987)

**Can of Worms II* (1987)

**The Hillbilly Dictator* (1989, *updated edition 1993)

**Trial by Voodoo: Why the Law Defeats Truth and Democracy* (1994)

**The Cartel: Lawyers and Their Nine Magic Tricks* (1998)

**Serial Liars* (2005)

The books marked * are available online at
www.netk.net.au/WhittonHome.asp

OUR CORRUPT LEGAL SYSTEM

**Why Everyone Is a Victim
(Except Rich Criminals)**

Evan Whitton

**For dearest Noela, without whom not a word of
any of my books would have been written.**

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*Significant Events***Significant events**

- c. 2700 BC. Egypt says justice means truth.
- c. 450 BC. Sophists teach Athens lawyers to lie.
- 449 BC. Truth-seeking Roman law begins.
- 476 AD. Roman Empire falls.
- Dark Ages (post-476). England, West Europe use anti-truth system, verdict by deity.
- 1072. British Empire begins.
- c.1090-1300+. Trade of authority totally corrupt.
- 1166. Common law begins.
- c.1180. Extorting judges, lawyers form cartel to run law as a business.
- 1215. June. King John signs magnates' tax evasion scheme, Magna Carta, at sword-point.
- November. Pope Innocent III's Fourth Lateran Council promulgates reversion to truth-seeking.
- 1215+ West Europe courts revert to truth-seeking system; judges torture suspects.
- 1219. Cartel rejects truth-seeking system.
- 1275. Libel law biased in favour of magnates
- c.1300. Lawyers run judicial appointments, legal education.
- c.1350. Lawyers dominate Parliament.
- c.1385. Chancery Court opens for business
- 1460. Lawyers use pleadings to start getting control of civil system.
- c. 1650. Chancery lawyers/Chancellors begin 265-year collusion to steal from deceased estates.
- c. 1700. British lawyers begin to defend criminals.
- 1754. Judicial torture abolished in Prussia.

Our Corrupt Legal System

1758. First common law school (Oxford).
1775. William Blackstone, first academic, says God dictated system; lies about self-incrimination.
1786. Judicial torture abolished in Italy.
1789. Judicial torture abolished in France.
- c. 1790. Lawyers now prominent in British criminal courts. Judges start concealing evidence.
1791. US locks Blackstone's self-incrimination lie into Constitution as Fifth Amendment.
1792. Justice Buller changes law on lawyer-client secrecy. Beneficiaries: criminal clients. Judges lose libel verdicts.
1798. Deceased estate case, *Jennens v Jennens*, model for *Jarndyce v Jarndyce*, begins in Chancery Court.
1800. Napoleon begins to reform truth-seeking system. It becomes the world's most widespread, accurate and cost-effective system.
1801. Judicial torture abolished in Russia.
1882. Justice Brett makes discovery open-ended.
1894. Lord Herschell conceals pattern evidence.
1914. Lord Reading enables judges to conceal all evidence.
1915. *Jennens v Jennens* ends after 117 years; entire estate 'devoured'.
1932. Lord Atkin biases negligence law against defendants.
1936. Lord Atkin biases tax law against pay-as-you-earners.
1957. A lie by Australian judges, 'absolutely' does not mean 'absolutely', benefits tax lawyers, tax evaders.

Significant Events

1961. Justice Tom Clark, probably appointed by Mafia, changes US search law; criminals benefit.
1964. US Supreme Court ends common law libel bias against media. Bias remains elsewhere.
1965. Luckily for wrongly convicted 'terrorists', e.g. Birmingham Six, Britain abolishes execution.
1970. RICO: US lets jurors hear pattern evidence against organised criminals, including judges.
1972. US Supreme Court abolishes execution.
1974. Torture of Birmingham Six produces false confessions, murder convictions.
1974. Australian judges' lie, a profit is a loss, makes billions for tax evaders.
1976. US Supreme Court restores execution.
- 1981-94. RICO convicts 23 Mafia bosses, 20 Chicago extorting judges, 50 lawyer-bagmen.
1991. Birmingham Six acquitted.
1992. Runciman inquiry into criminal system learns innocent rarely charged, let alone convicted, in truth-seeking France and Germany.
1993. 1219 revisited: Runciman inquiry rejects truth-seeking system. Recommends truth-seeking body to look into possible wrong convictions.
1998. British Criminal Cases Review Commission (CCRC) begins.
1999. Report: 12 of 285 (4.2%) prisoners on Illinois Death Row wrongly convicted since 1977.
2000. US Supreme Court chooses President.
2009. January. 3297 on US Death Rows; 132 (4%) probably innocent.
September. CCRC reports 281 guilty verdicts overturned, including four who were hanged.

Abbreviations

Butterworths. Butterworths Concise Australian Legal Dictionary (Butterworths 1997).

DPP. Director of Public Prosecutions.

CDNB. The three-volume Concise Dictionary of National Biography (OUP 1992).

Columbia. The Columbia Encyclopaedia (Columbia University Press, fifth edition 1993).

Macquarie. The Macquarie Dictionary (Macquarie Library, 1985)

NSW. New South Wales, a state of Australia. The capital, Sydney, has a population of 4.5 million.

OxfordSC. The Oxford Companion to the Supreme Court of the United States ed. Kermit L Hall (OUP 1992).

OxfordLQ. The Oxford Dictionary of American Legal Quotations ed. Fred Shapiro (OUP 1993).

Foreword

Foreword

This is one of the most important books I have ever read on the common law legal system.

Over the years, I have reluctantly come to believe that there are many legal academics and lawyers who believe that the system is there for them, rather than the “clients” they purport to serve. I have been critical of the work of Oxford law professors and others who have produced a good many published articles in books and prestigious law journals which, quite frankly, were shallow, wrong and disrespectful to the work of others.

At the time I thought I was being “bold” by stating clearly that these people had not only made serious errors, but that the errors were so fundamental that they should have known at the time that what they were doing was fundamentally flawed.

It was not until I became involved in work on miscarriages of justice, nearly ten years ago, that I began to realise just how bad the system was. It was around this time that I came across the work of Evan Whitton. I must admit I liked the boldness of his approach, which, by comparison, made my own previous efforts look distinctly timid.

I also appreciated the scholarship involved with his work. He left nothing to be taken for granted, or to be accepted just because he said it was so. Unlike the Oxford professors, Whitton provided footnotes for all of his propositions, so if there was to

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be any doubt, any one of us could go forth and check it out for ourselves.

There is much in what Whitton says, which seems self-evident when clearly stated. I have always thought it odd that lawyers, who have spent a good many years advocating for one side or the other, can upon appointment to the Bench become impartial arbiters of disputes. They haven't been trained for it and they have had no practice at it. Whitton reckons if we were to train them as judges (as they do in Europe), then they might just become good at it.

How can juries possibly understand what expert witnesses have to say when everything has to be tediously extracted from them by question and answer with frequent interruptions and objections? Why is it, that most of what we need to know to place the knowledge in context in trials is ruled to be inadmissible? If this were all part of a game with no real consequences, then one might allow the intellectual challenge to outweigh the pointlessness of the task. However, when Whitton points out that, "the result of the system's emphasis on winning is that as many as 50 prisoners in every 1,000 are innocent", then that is truly shocking. One only has to have contact with a single case of a serious miscarriage of justice to appreciate the devastation which is wrought upon the family, friends and those who just live up the street from someone falsely convicted.

The answer of course is to have a system which not only cares about the truth, but which actively

Foreword

seeks to find it. When Britain introduced a “truth-seeking” component to their adversarial system, the results were remarkable. The Criminal Cases Review Commission, in the first ten years of its work, has led to the overturning of some 250 convictions, which otherwise had exhausted all avenues of appeal. Some 50 of those convictions were for murder. In four of the cases, the people convicted had been hanged.

Australia still continues to pretend that things do not go wrong with the legal system, and that if they do, then the appellate system can fix that up – when that is self-evidently not so.

When Australia used a truth-seeking method (a Royal Commission) in the case of Lindy Chamberlain it found out that virtually all of the scientific evidence which has been given at the trial was wrong. When it used that same method (a Royal Commission) in the case of Edward Splatt, it found out again that of the numerous pieces of scientific evidence given at the trial, not one of them was without error.

The Chamberlain and Splatt Royal Commission made recommendations, but they were not properly implemented. Since then, the official response to alleged miscarriages of justice has been to ignore them.

In one case from South Australia (*R. v. Keogh*), the chief prosecution (expert) witness has given sworn evidence in formal proceedings in 2004 and 2009 (the trial took place in 1995) in which he has contradicted the evidence which he gave at the

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trial in a number of important respects. There have been numerous legal proceedings in this case over those years, and in none of them has the court actually considered the “merits” of the arguments to be put forward.¹

The Court of Appeal says that once an appeal has been heard, thereafter, the Court cannot re-open the appeal. The High Court of Australia has said that the contradictions of the trial evidence constitute “fresh” evidence, and that cannot be heard in the High Court. As Justice Kirby has stated:

The rule [prohibiting the High Court from receiving fresh evidence] means that where new evidence turns up after a trial and hearing before the Court of Criminal Appeal are concluded, whatever the reason and however justifiable the delay, the High Court, even in a regular appeal to it still underway, can do nothing. Justice in such cases, is truly blind. The only relief available is from the executive Government or the media -- not from the Australian judiciary.²

1 The details of this case and the legal proceedings referred to can be found at the Networked Knowledge web site – netk.net.au

2 Justice Michael Kirby, “Black and White Lessons for the Australian Judiciary” (2002) 23 *Adelaide Law Review*, 195-213 at 206. See also *Sinanovic’s Application* (2001) 180 ALR 448 at 451 per Kirby J. “By authority of this court [the High Court of Australia] such fresh evidence, even if it were to show a grave factual error, indeed, even punishment of an innocent person, cannot be received by this court exercising its appellate jurisdiction ... [the prisoner] would be compelled to seek relief from the Executive.”

Foreword

The reference to the “executive government” really means the state Attorney-General. Although there are at least 40 separate points (in the case referred to), any one of which would warrant the overturning of the conviction, the Attorney-General fails to see any issue which would justify returning the matter to the court for review. So, an innocent person has to remain in prison, so as to avoid being an embarrassment to the legal and political system which put him there.

Although at times witty and amusing, Whitton does have a very serious agenda to his work. His objective is to argue that it is the adversarial nature of the system which leads to the appalling costs and outcomes. As the Chief Justice of South Australia said (3 June 2007) the civil law system in South Australia is hopelessly struggling against such a backlog of cases that he is at a loss to know what can be done about it. I would advise him to read Whitton's book. The remedy is severe, but at least attainable. The "system" must be radically changed. We must adopt the inquisitorial system which operates in Europe and many other parts of the world. In doing so, we will have to increase the number of judges, at the same time ensuring that they are properly trained for the job they are to do, and not for some other task.

Although the inquisitorial system will require more judges, the compensating advantage is that it will require considerably fewer lawyers. Disputes, both civil and criminal, will be resolved quicker, cheaper and have more acceptable outcomes. Given

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the flood of miscarriages of justice which will be revealed in the next few years, and the considerable costs associated with putting them right - Mr Whitton's remedy might look extreme now - but in the years to come, it will represent the conventional wisdom.

In the meantime, this book should be required reading on Introduction to Law courses in all law schools across the country.

Dr Bob Moles ACII (UK) LLB (Hons) (Belf) PhD
(Edin) netk.net.au Adelaide January 2010

*Preface***Preface**

First, some definitions:

Justice. Maat, goddess of justice in Egypt c. 2700 BC, had a feather in her cap. It symbolised justice, truth, morality. A US judge, Harold Rothwax, said: 'Without truth, there can be no justice.' An Australian judge, Russell Fox, said justice means fairness; fairness to all and morality require a search for the truth; truth means reality. He also said: 'The public estimation must be correct, that justice marches with the truth.' The public thus know you can only be fair if you first find out what happened.

Common law. Judge-made law used in Britain and its former colonies, including the United States, India, and Australia. It developed in five stages. 1. Corrupt judges and lawyers formed a cartel late in the 12th century. 2. Judges rejected truth as the basis of justice in 1219. 3. Judges let lawyers take over control of the civil process from 1460, and (4) of the criminal process in the 18th century. 5. In the past 200 years judges have invented five rules which conceal evidence and get the guilty off. As Sir Ludovic Kennedy noted, and Napoleon demonstrated, justice is too important to be left to judges.

Sophistry. The art of lying is to make others believe things the liar knows are false. The motive is gain. Sophists, described by Socrates as morally bankrupt and by Plato as charlatans, taught Athenian lawyers how 'to make the weaker argument appear the stronger' 2500 years ago.

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Nothing changes. A US lawyer, Charles Curtis, said a lawyer's function 'is to lie for his client ... He is required to make statements as well as arguments which he does not believe in.'

US film critic Joel Siegel said. 'It's only the 99% of lawyers who give the rest a bad name'. In fact, the bad name comes mainly from trial lawyers, some 40% of the total. The other 60% may be really nice persons who would never tell a lie. Common law judges are former trial lawyers untrained as judges.

Corrupt. The Latin *corruptus* means broken in pieces. This book explains why and how justice is broken in our adversary system. It is instructive to compare it with the world's most widespread, accurate and cost-effective system: Napoleon's investigative (inquisitorial) system, now used in European countries, their former colonies, and Japan, South Korea and other countries.

	Investigative system	Adversary system
Seeks truth	Yes	No
Conceals evidence	No	Yes
In charge of evidence	Judges	Lawyers
Length of civil hearings	About a day	Months, years
Conviction rates	95%	Under 50%
Innocent in prison	Rare	1% - 5%

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Why are they so different? It is bootless to ask common lawyers. Law schools, in business for only 200 years, teach little legal history and slide round problems of truth and lawyer-control. George Orwell said: 'The most powerful lie is the omission.' The following may repair some omissions.

Roman law sought the truth, but in the Dark Ages after the Empire fell in 476, England and West Europe regressed to an anti-truth accusatorial system (A accused B; B said: Prove it!), barbaric ordeals and verdict by deity. Suspect witches were trussed and thrown in the river. If they sank, they were innocent. If they floated, they were guilty, and were fished out and hanged or burned to death. (Malignant cross-examination to defeat truth is the modern ordeal; rape victims have vomited on the witness box.)

Dickens said: 'The one great principle of the English law is to make business for itself', i.e. trial lawyers. In an irony that would have amused Bonaparte, it was a French organised criminal who was the remote cause of the bidness dagger being thrust into the heart of British justice. William II, son of Guillaume le Batard, institutionalised trickle-down extortion in the trade of authority (and was shot dead on 2 August 1100).

When the common law began in 1166, every public office, from Chancellor down, was thus for sale; buyers in turn extorted from people who had to deal with the office. Extorting judges and their lawyer-bagmen formed an alliance to protect and advance their business interests, including the graft.

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Richard Posner, a US economist and appellate judge, said lawyers and judges have always been 'a cartel' aiming 'to secure a lustrous place in the financial and social status sun'. The relationship has given trial lawyers power unique in legal systems. The common law might be termed cartel-made law.

After November 1215, European courts adopted an investigative system, but judges infected by the GSF – they believed that torture produces truth – perverted the system for five centuries. Lawyers' role in a truth-seeking system is necessarily limited; in 1219, the cartel decided to reject the investigative system and to retain the accusatorial system.

As the truth door shuts, the sophistry door opens, to judges as well as lawyers. London's population in 1219 was about 25,000. The public are entitled to ask judges and lawyers: why should we be robbed of justice because 800 years ago a few crooks in a small town in England decided that truth does not matter?

Lawyers have been the 'dominant influence' in English-speaking legislatures since about 1350. That is not fair to untrained liars.

Adversarial justice is an oxymoron, like military intelligence and legal ethics: it is a variation of the anti-truth accusatorial system. The adversary system dates from 1460, when trial lawyers began to take over civil evidence. Controlling evidence enables them to omit the damaging bits; spin out the pre-trial and trial process; and procure enough pelf to comfortably retire, if they choose, to the social status of untrained, uninformed and passive judge.

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Judges of course do the decent thing: they try to stay awake – Lord Thankerton knitted – but do they suddenly give up sophistry? Alan Dershowitz, a US lawyer, said ‘lying, distortion, and other forms of intellectual dishonesty are endemic among judges’. Two examples. A lie is the basis for the rule which saves criminals from giving evidence and so gets 25% off. A lie – absolutely does not mean absolutely – has cost Australian pay-as-you-earn taxpayers billions, but has made a lot of money for tax lawyers.

Extortion was not a 12th century aberration. In the 18th century, Lord Chancellor Macclesfield extorted bribes worth £500,000 today from barristers who wanted to be Masters in Chancery in order to extort from litigants. Francis Elde delivered the gold and notes to Macclesfield and his bagman, Master Peter Cottingham, in a clothes-basket. In the late 20th century, 20 extorting Chicago judges and 50 of their bagmen went to prison.

Members of a cartel, e.g. the oil cartel and the Australian cardboard box cartel, collude to increase prices, typically by 15%-25%. From about 1650, Chancery judges refused to finalise will cases for decades. Why? Lawyers were paid from the deceased estates. *Jennens v Jennens*, the model for Dickens’ *Jarndyce v Jarndyce*, began in 1798. It ended in 1915, when lawyers and judges had ‘devoured’ the remnants of an estate worth some £500 million today.

Trial lawyers did not defend accused until the rise of blue collar organised crime in the 18th century made it worthwhile. The low conviction

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rate is due to the invention since 1790 of 20 anti-truth devices, including six rules which conceal evidence from jurors. Lawyers say it makes trials fair, but fairness means truth. No other system hides evidence.

Dershowitz said: 'The American criminal justice system *is* corrupt to its core ... The corruption lies ... in its *processes* ...' He said all defence lawyers, prosecutors and judges know 'almost all' (say 95%) of accused are guilty. They are thus almost always, in effect, accomplices after the fact. In 1994, NSW judges sitting alone (and hiding evidence from themselves) convicted only 25% of accused. Honest cops doggedly investigating crime are plainly of more use to society than judges and trial lawyers.

Napoleon had time to begin to reform and codify the investigative system only because, by a fluke, his generals, Desaix, Marmont and Kellermann, crushed Austria at the Battle of Chicken Marengo in 1800. His system is generally accurate because trained judges search for the truth, and is cost-effective because they have no incentive to spin the process out. On average, the cost of a libel action in England is 140 times that of a libel action in Europe.

The adversary system is biased **against** people in business, industry, medicine, and the media, and **in favour of** criminals. The bias makes business for trial lawyers and [makes] the rule of law a joke in the worst possible taste. Citizens on sophistry watch must have the hopeless feeling that any judgment or verdict may be right, or it may not.

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The remedy is simple. Common law countries already use an investigative system when they need to find the truth. Six times as many judges (and fewer lawyers) will be needed, but the law will be cheaper as well as more just. Academics will have to be retrained, but searching for the truth is easier than mugging up 24 ways to conceal or otherwise defeat it. The cartel can then be dismantled by training judges separately from lawyers, as they do in Europe.

All we are saying, is give truth a chance. But trial lawyers, academics and, behind the scenes, legal bureaucrats will offer noisy resistance, as in India (conviction rate 16%) when an inquiry recommended changing to a truth-seeking criminal system.

Lawyers are only 0.2% of the population, and their utterance may be mere sophistry informed by the Gadarene Swine Fallacy, but their access to the media is as disproportionate as their numbers in legislatures. The parrot-house, however, can be safely ignored. The public know that justice means truth; the vast majority of voters will support change to a What happened? system.

Note. *Our Corrupt Legal System* is an updated and restructured version of *Serial Liars* (2005)

- Evan Whitton, Sydney, January 2010