

# ADDENDUM

## Table of References for Constitutional Authority in Western Australia.

### FOUNDATION LAW

#### Constitution of Australia Constitution Act 1900

1. Preamble

WHEREAS the people ....., have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom ....., and under the Constitution hereby established.

2. Second Clause

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.

3. Third Clause

It shall be lawful for the Queen, ....., to declare by proclamation that, ....., the people ....., shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia.

4. Fifth Clause

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 ....., notwithstanding anything in the laws of any State

5. Ninth Clause

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.*

6. Ninth Clause

51 Legislative powers of the Parliament

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:

ss (i) – (xxxix) (addressing limited powers, devoid of power to alter the Royal Title)

7. Ninth Clause

58 Royal assent to Bills

When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

8. Ninth Clause

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.

**Interpretation Act 1889 (UK)**

9. 30. In this Act and 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 attention appears, be construed as references to the Sovereign for the time being, and this Act shall be binding on the Crown.

10. 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.

**Acts Interpretation Act 1901 (Cth)**

11. 15A. Every Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that 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 the extent to which it is not in excess of that power.

**LETTERS PATENT**

RELATING TO THE OFFICE OF GOVERNOR OF THE STATE OF WESTERN AUSTRALIA.

Dated 14th February, 1986.

12. **ELIZABETH THE SECOND,**

by the Grace of God of the United Kingdom of Great Britain and Northern Ireland  
and of Our other Realms and Territories Queen, Head of the Commonwealth,  
Defender of the Faith,

13. **II. Constitution of Office of Governor**

There shall be a Governor of the State of Western Australia who shall be Our representative in the State.

14. **V. Appointment of Governor**

The appointment of a person to the office of Governor shall be during Our Pleasure by Commission under Our Sign Manual.

15. **Powers and functions of Governor**

The Governor shall have and may exercise all the powers and functions which belong to the office of Governor or are to be performed by the Governor whether conferred by these Our

Letters Patent, a law in force in the State or otherwise, including the power to constitute and appoint such Ministers, Judges, Magistrates, justices of the Peace and other necessary officers as may be lawfully constituted or appointed by Us.

## **CONSTITUTION ACT 1889 (WA)**

### **2. Legislature to be constituted in Western Australia**

16. (2) The Parliament of Western Australia consists of the Queen and the Legislative Council and the Legislative Assembly.
17. (3) Every Bill, after its passage through the Legislative Council and the Legislative Assembly, shall, subject to section 73, be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly assented to by or in the name of the Queen.

## **INTERPRETATION ACT 1984 (WA)**

18. 4. This Act binds the Crown.
19. 5. In this Act and every other written law -  
*Her Majesty , His Majesty , Queen , King , or Crown* means the Sovereign of the United Kingdom, Australia and Her other Realms and Territories, and Head of the Commonwealth and includes the predecessors and the heirs and successors of the Sovereign;

## **CRIMINAL CODE 1913 (WA)**

20. 44. 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 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;
  - (d) To raise discontent-or disaffection amongst Her Majesty's subjects;
  - (e) To promote feelings of and enmity between different classes of Her Majesty's subjects;
- is a seditious intention, unless it is justified by the provisions of the next following section.
21. 46. A seditious enterprise is an enterprise which is undertaken in order to the carrying out of a seditious intention.

Seditious words are words expressive of a seditious intention.

The term "seditious writing" includes anything intended to be read, and any sign or visible representation, which is expressive of a seditious intention.

22. 173. Any person who, being employed in the Public Service, or as an officer of any Court or tribunal, perversely and without lawful excuse omits or refuses to do any act which it is his duty to do by virtue of his employment, is guilty of a misdemeanour, and is liable to imprisonment for two years, and to be fined at the discretion of the Court.
23. 177. Any person who, without lawful excuse, the proof of which lies on him, does any act which he is, by the provisions of any public Statute in force in Western Australia, forbidden to do or omits to do any act which he is, by the provisions of any such Statute, required to do, is guilty of a misdemeanour, unless some mode of proceeding against him for such disobedience is expressly provided by Statute, and is intended to be exclusive of all other punishment.

The offender is liable to imprisonment for one year.