HIGH COURT OF AUSTRALIA

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN: John Ruddick
Plaintiff

and

Commonwealth of Australia
Defendant

PLAINTIFF'S SUBMISSIONS

PART I: CERTIFICATION

1. These submissions are suitable for publication on the internet.

PART II: ISSUES IN THE SPECIAL CASE

2. The questions of law in the special case detail the material issues.

PART III: SECTION 78B NOTICE

3. All State and Territory Attorneys-General have been served a s 78B Notice.

PART IV: JUDGMENT BELOW

4. These proceedings are in the original jurisdiction of the High Court.

PART V: FACTS

5. Possibly relevant adjudicative facts are in the special case.

PART VI: ARGUMENT

Summary of argument

6. Part XI of the *Commonwealth Electoral Act 1918* (Cth) (**CEA**) established from 1984 a register for political parties seeking to compete in federal elections. The primary benefit of registration is that party names (and abbreviations and logos) are printed on ballot papers next to candidate names, and 'above the line' on Senate ballots.[1]

[1] *Mulholland v Australian Electoral Commission* [2004] HCA 41; 220 CLR 181 (**Mulholland**) at [137] (Gummow and Hayne JJ – "very significant"); see also Special Case (**SC**) [42]-[43], in the Special Case Book (**SCB**), 51

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7. Sections 129, 129A, 132(2)(b)(iii) and (iv), and 134A (**confusion provisions**) of Part XI of the CEA already ensure that registered party names are not confusing to voters: *Woollard and Australian Electoral Commission and Anor* [2001] AATA 166 (**Woollard**) at [44].[2]

8. The confusion provisions were amended on 3 September 2021 by items 7, 9, 11 and 14 (**impugned provisions**) of the Schedule to the *Electoral Legislation Amendment (Party Registration Integrity) Bill 2021* (**Amending Bill**). The impugned provisions, construed in their context of Part XI of the CEA:

   a) Condition the future registration of all new parties that seek registration on the consent of a first-registered party (**incumbent party**[3]) when the names of the new and incumbent parties have a word in common. (This aspect affects new or potential parties.)

   b) Enable an incumbent party to force (via objection) the name-change or else deregistration of an already-registered party when the names of the already-registered and incumbent parties have a word in common. (This aspect affects current parties.)

9. The plaintiff's party (SC[10]) is a 'current' party: it has been registered in at least one Australian jurisdiction (ACT) with its current name since 2001, and continuously with the AEC under its current name since 2008: SC[13], [19], [85]-[86]. It has a word in common ("liberal") with an incumbent party: the Liberal Party of Australia (**Liberal Party**). On 9 November 2021 the Liberal Party objected, thereby forcing the plaintiff's party to change its name within a statutorily stipulated time-frame, or be deregistered, with an election immanent: s 134A(1)(e); SC[111]-[115]

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[2] *Woollard* was a de facto sitting of the Full Federal Court, as a panel of the AAT conducting administrative review of an AEC decision: *Woollard* at [6] (The relevant statutory provision now only requires at least one Federal Court justice on a review panel: s 141(6) CEA)

[3] The word 'incumbent' is deliberately chosen: *Mulholland* at [84] (McHugh J – "The exception for incumbent senators suggests that parliamentarians know the practical importance of these machinery provisions for their electability"); [235], [254] (Kirby J); [242]-[248], [283] (Callinan J); [348] (Heydon J); and see *Figueroa v Canada (Attorney General)* [2003] 1 SCR 912 (**Figueroa**) at 947-948 [56]-[57]

10. **Ground 1:** Sections 7 and 24 of the constitution contain the words "directly chosen by the people" (**limiting words**[4]). The limiting words preclude the parliament passing laws which, in the purported regulation of elections, impose a discriminatory burden on a political party or class of parties with anti-competitive effect.[5] An electoral law will relevantly discriminate if on its face it subjects a political party or class of parties to a disability or disadvantage (burden) or if the operation of the law in fact produces such a result.[6]

11. The impugned provisions impose a (permanent) discriminatory burden or disability on a class of political parties (potential and current) that is substantially anti-competitive in its legal and practical effect.[7] Potential parties are deprived of access to the complete universe of party names, and hence partly to the political origins or traditions such names might represent. Current parties are forced to compete at the next (imminent) election either with a new party name or else with no party name on the ballot, which will substantially reduce their electoral competitiveness.[8]

12. **Ground 2:** The impugned provisions contravene the implied freedom. It is common ground that political party names are political communication, and the same must be true of party logos.[9] In the context of access to the ballot, a burden on the communicative function of a political party's name cannot be untangled from the

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[4] Also called the 'constitutional mandate' or 'constitutional imperative' by some Justices of this Court, for example: *Rowe v Electoral Commissioner* [2010] HCA 46; 243 CLR 1 (**Rowe**) [2], [23] (French CJ); [348], [368], [384] (Crennan J)

[5] An anti-competitive effect is one that substantially lessens electoral competition among political parties: *Mulholland v Australian Electoral Commission* [2003] FCAFC 91; (2003) 128 FCR 523 (**Mulholland below**) at 531 [22] (Black CJ, Weinberg and Selway JJ - "The nature of democratic politics is competition"); see generally, Gauja (2014) *Building competition and breaking cartels? The legislative and judicial regulation of political parties in common law democracies*, International Political Science Review, 35(3), 339–354

[6] *Murphy v Electoral Commissioner* [2016] HCA 36; 261 CLR 28 (**Murphy**) at [55]-[60] (Kiefel J - as her Honour then was - distinguishing disability/disentitlement from burden); *Mulholland below* at 531 [22] ("the discriminatory privilege of one is the burden of another")

[7] It remains an open question whether the issue of proportionality – possibly distinct from the issue of justification - arises in this constitutional context: *Falzon v Minister for Immigration and Border Protection* [2018] HCA 2; 262 CLR 333 (**Falzon**) [25] (Kiefel CJ, Bell, Keane and Edelman JJ); *Murphy* at [296]-[297] (Gordon J); *Roach v Electoral Commissioner* [2007] HCA 43; (2007) 233 CLR 162 (**Roach**) 178-179 [17] (Gleeson CJ)

[8] SC[42]-[43], [58.3] and [59.1] ("0.01%" Senate vote share for the plaintiff's party in Victoria, a state in which - at that election - that party was inadvertently unregistered.)

[9] Amended defence at [21a] (SCB at 38); See generally chapter 1 of L Downer, *Political Branding Strategies: Campaigning and Governing in Australian Politics* (2016) Palgrave MacMillan

electoral consequences of the burden.[10] The impugned provisions are incompatible because their purpose is anti-competitive. The impugned provisions cannot be justified given that the confusion provisions are the compelling alternative, and if not, the Robson Rotation ballot design is: SC(54)

The constitutional context

13. Ultimately, the federal parliament's broad power to regulate federal elections is sourced in ss 51(xxxvi) (and perhaps 51(xxxix))[11] and so is "subject to this Constitution" and hence the limiting words.[12] The limiting words are no longer considered merely to contain a "negative stipulation" against an electoral college[13] – rather, they require that popular elections preserve a "true choice" or a "full and free choice" between competing candidates for election.[14] Other formulations of the limiting words' entrenched 'bare' or 'irreducible' minimum or core[15] have been "a direct, free, informed and genuine choice by the people";[16] a "free election";[17] "a real choice";[18] and an "informed choice" based upon "an opportunity to gain an appreciation of the available alternatives".[19]

14. Beyond that entrenched minimum, the federal legislature's otherwise broad power to regulate elections permits laws falling within the whole spectrum of different forms of representative government.[20] That notwithstanding, whenever a proposed change to

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[10] *Mulholland* at [99] (McHugh J), [284] (Callinan J); *Mulholland below* at [22]

[11] *Spence v Queensland* [2019] HCA 15; 268 CLR 355 (**Spence**) at [45], [53] (Kiefel CJ, Bell, Gageler and Keane JJ)

[12] *Murphy* at [76] (Gageler J), [262] (Gordon J); *Rowe* at [8] (French CJ); *Mulholland* [210]-[216] (Kirby J)

[13] *Murphy* at [53] (Kiefel J - "turning in the law"); *Mulholland* at [28] (Gleeson CJ - first sentence); at [220] (Kirby J)

[14] *Mulholland* at 191-192 [18] (Gleeson CJ); at 236 [153] (Gummow and Hayne JJ); *Langer v Commonwealth* [1996] HCA 43; (1996) 186 CLR 302 (**Langer**) at 316-317 (Brennan J), 333 (Toohey and Gaudron JJ), 341 (McHugh J); see also *Day v Australian Electoral Officer for the Stale of South Australia* (2016) 261 CLR 1 (**Day**) at 12 [19] (the Court).

[15] *Mulholland* at 206 [63] (McHugh J); M Gleeson (2001), *The Shape of Representative Democracy*, Monash University Law Review 27(1) at p 7

[16] *Mulholland* at [62], [73] (McHugh J); *Roach* at 199 [86] (Gummow, Kirby and Crennan JJ)

[17] *Mulholland* at 236 [154] (Gummow and Hayne JJ)

[18] *Mulholland* at 257-258 [223] (Kirby J)

[19] *Mulholland* at 191-192 [18] (Gleeson CJ), 300 [344] (Heydon J); *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520 (**Lange**) at 560, referring to *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106 (**ACTV**) at 187 (Dawson).

[20] See the (historical) examples in *Mulholland* at [64] (McHugh J); *Day* at [19] (the Court)

the already-existing federal electoral regulatory regime is challenged in this Court, it is the *change* that is to be assessed against the limiting words.[21]

The statutory context

15. The CEA is a long statute seemingly touching on nearly every aspect of federal elections.[22] Relevantly for this case, Part XI was introduced into the CEA (initially as Part IXA) on 24 February 1984 for the primary purpose of creating a register of eligible political parties:[23] s 125. Eligibility is defined in s 123, which also defines 'Parliamentary Party'.[24] Registration is optional: s 124. Section 126 sets out the requirements for an application to register; importantly, a party can apply to have its name, an abbreviation of its name, and its logo entered in the register: s 126(2). The requirements for a logo are in s 126(2AA). Section 131 sets out the conditions for varying an application. The register cannot be changed once an election is called: s 127. Section 132 sets out how the AEC is to deal with an application to register. Different levels of a party may be registered: s 130. The process of registration is dealt with in s 133 and deregistration in ss 135-138. The AEC may at any time review the register to ascertain whether a party remains eligible and hence whether it may remain on the register: s 138A. The register is available to the public for inspection: s 139. Section 141 permits internal AEC reviews and appeals of AEC decisions to the AAT.

16. Most relevantly for this case, Part XI already contains the confusion provisions. The confusion provisions already protect voters from possible confusion as regards different registered party names, abbreviations or logos where, in the AEC's opinion, a potential party's proposed new name, abbreviation or logo is the name, abbreviation or logo of an incumbent party, or so nearly resembles the name, abbreviation or logo of

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[21] *Rowe* at [25] (French CJ – "it is the change effected by the law that must be considered"); *Murphy* at [39] (French CJ and Bell J), [48], [52] (Kiefel J), [86] (Gageler J), [186]-[187] (Keane J – "alteration of the balance"), [239] (Nettle J), [292] (Gordon J)

[22] See *Murphy* at [270]-[284] (Gordon J)

[23] The same reform also introduced public funding for political parties, the printing of registered party names on ballot papers, the permitting of group voting tickets and the division of the Senate ballot paper by a line allowing the option of above the line voting for political parties or groups and below the line voting for individual candidates: *Day* at [11], [15]-[18]; *Mulholland* at [1] (Gleeson CJ), [55]-[62] (McHugh J); See s 113 of the *Commonwealth Electoral Legislation Amendment Act 1983* (Cth) (https://tinyurl.com/kfnncfsy)

[24] The definition is now confined to a party with at least one member of the *Commonwealth* parliament. (Originally, the definition also included a party with at least one member of a State or Territory parliament, which would have included the plaintiff's party in this case: SC[22].)

an (unrelated) incumbent party such that it is "likely to be confused with or mistaken for" that name, abbreviation or logo.[25]

17. In 2000 the AEC declined to uphold an objection by the Liberal Party to the registration of a new political party: 'Liberals for climate'. On review, the AAT in *Woollard* at [44] construed the (then) confusion provisions as requiring the AEC to form an opinion about whether there was a resemblance between a new name and an incumbent party's name; and if so, whether there was a real chance ("likely") that the new name would be mistaken for the incumbent party's name in the sense that an elector intending to vote for the incumbent party instead would vote for the new party because the voter thought the new name is that of the incumbent party; and finally, whether there was a real chance that the new name would cause voters to think that it was the same as the incumbent party's name or that voters would be left in such uncertainty (i.e., confusion) as to which name attaches to which organisation that no informed vote could be made without some additional information. The AAT concluded that any resemblance in names due to the sharing of a common, "generic"[26] word like "liberal" was "limited", and set aside the AEC's decision: *Woollard* at [45], [47]

18. In 2004 the Parliament passed amendments to the confusion provisions to address "considerable concern" about the name and the conduct of 'Liberals for forests' during the 2004 election: SC[83]. That amendment introduced into the confusion provisions a further criterion of whether "a reasonable person would think [a new name, abbreviation or logo] suggests that a connection or relationship exists between the [potential] party and [incumbent] party if that connection or relationship does not in

[25] An incumbent party can also object to the continued registration of a current party on the same grounds: s 134A. If an objection is made, the AEC must uphold the objection: s 134A(1)(d). (The original purpose of this provision was explained in *Woollard* at [41].)

[26] The word 'liberal' is popular worldwide and frequently has appeared in the name of historic and contemporary parties: Switzerland has two well-known parties that include the word liberal, and in Denmark there are three.

fact exist".[27] After seeking independent advice, the AEC concluded that *Woollard* would have been decided the same way.[28]

19. In 2009 the AAT further considered the confusion provisions: SC[84]. The AAT (Tamberlin J presiding) restated the purpose of the confusion provisions as being to avoid confusion or mistake by voters at the ballot box.[29]

20. The confusion provisions have force: the AEC upheld an objection by the Liberal Party to the registration of a new political party (the 'New Liberals') on 7 December 2021.[30] And see also SC[102], dealing with logos.[31]

The impugned provisions and their 'purpose'

10 21. **Paucity of secondary material:** The Amending Bill passed both Houses of parliament with "bipartisan"[32] support on 26 August 2021, coming into force on 3 September 2021: s 2(1); SC[109]. The "mischief"[33] to be remedied by the impugned provisions is only to be found at SC[107].[34] That is a reference to the Joint Select Committee on Electoral Matters' December 2020 "Report on the conduct of the 2019 federal election and matters related thereto" (the **2019 JSCEM Report**). The 2019 JSCEM Report contains 228 pages - only half of one page is devoted to the topic of "distinguishing

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[27] *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* (Cth) – adding new sub-section 129(1)(da)

[28] *Liberal Party of Australia v Australian Electoral Commission* [2009] AATA 551 (https://tinyurl.com/5x4xm3fa).

[29] At [39] (https://tinyurl.com/2p9x9k6b), referencing *Woollard* at [23]. (The remedy for non-ballot booth issues of concern around voter confusion (such as, for example, misleading how-to-vote cards or 'corflutes' at polling stations, or misleading political advertising during election campaigns) is to be found in other Parts of the CEA: *Garbett v Liu (No 2)* [2020] FCAFC 14; 273 FCR 44; *Garbett v Liu* [2019] FCAFC 241; 273 FCR 1)

[30] SC[87]-[96]. (Note: the AEC's s 141 internal review of the delegate's (initial) decision was published after the special case was filed: https://tinyurl.com/3p6thmp5.)

[31] The Liberal Party made objections to the AEC concerning the registration of the plaintiff's party's name and/or abbreviation and/or logo at its inception in 2001, and again in 2008, in 2010 and in 2013: SC[86]

[32] Hansard, House of Representatives, 25 August 2021, at pages 8540, 8548, 8549 and 8551 (https://tinyurl.com/55x3zuvd); House Votes and Proceedings No 139 (25 August 2021) at page 2153; Senate Journal No 117 (26 August 2021) at page 3999; Section 15AB(2)(h) of the *Acts Interpretation Act 1901* (Cth).

[33] *McCloy v New South Wales* [2015] HCA 34; 257 CLR 178 (**McCloy**) at [132] (Gageler J); *APLA Ltd v Legal Services Commissioner (NSW)* [2005] HCA 44; 224 CLR 322 at [178] (Gummow J)

[34] EM at [19] and [24] ("The amendments respond to Recommendation 23 from the JSCEM *Report on the conduct of the 2019 federal election and matters thereto.*"). Also, SC[110]

party name registrations". In the four short paragraphs contained in that half-page, there is not one footnote, nor a single reference within the text, to *any* basis (or justification, or support) for the asserted "mischief" therein stated.

22. The EM refers back to the 2019 JSCEM Report as its basis for the new law, and the 2019 JSCEM Report refers only to "commentary" (at [7.41]) as a possible basis.[35] It is to be inferred that such "commentary" refers to the "Labor vote" being "impaired in some seats where the Democratic Labor Party is listed higher on the ballot paper", as well as to the "Liberal vote" being "similarly depressed where the Liberal Democratic Party is listed higher". At [7.43] there is a reference to "election outcomes" possibly being "distorted by duplicative names appearing on the register of political parties."[36] That paragraph further refers to "minor parties" versus "major parties", and then at [7.44] there are references to "freeloading" and "public branding".

23. **A 'gap' in the parliament's basis (and justification) for the impugned provisions:** And that is it, as far as the asserted "mischief" (and hence 'purpose') of the impugned provisions goes. It is notable that there is not a fact or inference referenced in either the EM or the 2019 JSCEM Report.[37] In contradistinction to other cases,[38] there are no reports before the Court (as there were none before the Parliament) from government bodies or authorities enabling parliament even to infer an apprehended risk that needs addressing.[39] The EM's minimal statement of purpose for the impugned provisions presumably relies on Parliament's right to act protectively in response to inferred legislative imperatives.[40] Even so, at least where the implied freedom is burdened, it is

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[35] An example of the type of "commentary" referred to in [7.41] might be that of then Senator Leyonhjelm on his 2013 Senate election result: SC[73]-[75]. Since the alleged or asserted 'confusion' occurs inside a (secret) ballot booth, all "commentary" on the topic is essentially speculative.

[36] The confusion provisions already deal with the issue of 'duplicative names', so if this is the "mischief", one would expect to find some reference in the 2019 JSCEM Report or in the EM to an alleged or actual inadequacy in the operation of the confusion provisions.

[37] To give one example: neither document references the seemingly relevant fact of the relatively-recently introduced reform (in 2016) of registering party logos and thereby permitting them on ballot papers, a reform partly introduced, it was stated, to assist those with "literacy problems": SC[98]

[38] For two recent examples, see the reports referenced in: *LibertyWorks Inc v Commonwealth of Australia* [2021] HCA 18; 95 ALJR 490 at [7]-[11] (Kiefel CJ, Keane and Gleeson JJ); *McCloy* at [233] (Nettle J)

[39] There is no reference or evidence in the special case of any concern previously conveyed by the AEC to any parliamentary committee or to any other body in relation to this "mischief".

[40] *Spence* at [54]; *Brown v Tasmania* (2017) 261 CLR 328 at 421-422; [2017] HCA 43 (**Brown**) at [288] (Nettle J); *Coleman v Power* (2004) 220 CLR 1 at 124 [329]; [2004] HCA 39 (Heydon J)

settled jurisprudence of this Court that the persuasive onus of proving 'justification' of a burden lies with the polity.[41]

24. **Justification in the special case:** The Commonwealth seeks to make good *ex post facto* via the special case the 'gap' in the parliamentary factual basis (and justification) for the impugned provisions. The factual 'heavy-lifting' in the special case is at SC[57]-[81], which statistically describes Senate election results for elections in the years 2010 to 2019, with the main factual claim stated in SC[57] as being that where the Liberal Democrats appeared above the line and to the left of the Liberal Party "they received a higher share of the vote than where they drew a position to the right of the Liberal Party", and that "this was not the case for any other party that contested the 2010, 2013, 2016 and 2019 elections". That is a factual analysis almost identical to one made by the Liberal Party in its objection (dated 18 March 2021) to the AEC against the application for registration of the New Liberals Party.[42]

25. During this conveniently incomplete election sample period,[43] in Senate elections the Liberal Democrats appeared to the right (when above the line) of the Liberal Party for every State and Territory in both the 2010 and 2019 elections.[44] From this small sample and simple (even simplistic) statistical analysis (comparisons of averages), the Commonwealth seeks to have an inference drawn about the effect of relative ballot position as between two specific parties and voter 'confusion' as regards the names of those two parties - yet it is a truism in the social sciences that correlation is not causation.[45] At its highest, the data in the special case is evidence that voting "may be

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[41] *Unions NSW v New South Wales* [2019] HCA 1; 264 CLR 595 (**Unions No 2**) at [93]-[102] (Gageler J). [151] (Edelman J); *McCloy* at 201 [24] (French CJ, Kiefel, Bell and Keane JJ)

[42] See p 10 of the Liberal Party's formal objection to the AEC, which remains publicly available (note: slow download): https://tinyurl.com/ycktyrjk. (The Liberal Party's analysis does not include the 2010 election, one of the years when the Liberal Democrats were to the right of the Liberal Party in every State and Territory: SC[58.1])

[43] Even though the Liberal Democrats did not compete in the 2007 federal election under that name, both the Democratic Labor Party and the Country Labor Party did. The Liberal Democratic Party did compete under its current name in Lower House federal elections in those years, which seemed to be Parliament's main 'concern': 2019 JSCEM Report at [7.41] ("higher"). See also SC[72] (academic study of Australian lower house voting and relative ballot position)

[44] SC[58.1] and [58.6]. See also the defendant's amended defence at [25a] (SCB at 38), read with the particulars in [18] and [19].

[45] Effectively, only two election periods provide the needed 'heterogeneity' (to use the statistical jargon) on which to base factual conclusions: see generally, Athey and Imbens, *The State of Applied Econometrics: Causality and Policy Evaluation*, Journal of Economic Perspectives (2017) Vol 31(2), pages 3–32, at pp

affected"[46] by the described phenomenon of the Liberal Democrats being to the left of the Liberal Party.[47]

26. Given such a broad level of analysis, one matter tells heavily against a drawing of any causal inference. That matter is the extensive, world-wide political science literature on 'ballot order effect':[48] SC[59], [71]-[72]. The term 'ballot order effect' refers to how the position of a candidate or party on a ballot affects the number of votes they receive, and a special case of that effect is the 'primacy effect', which reflects the 'bonus' received for being listed first on the ballot.[49] The effect has been researched by political scientists for decades, across multiple countries and among differing political and voting systems.[50] The effect varies with the size of ballot paper/number of parties, and it holds for both alphabetic and randomised ballot ordering.[51]

27. In a recent case before this Court, the Commonwealth agreed to a fact that "other sources of information have the capacity to affect the electoral choices of voters", including, among a long list of sources, and given that in this case the relevant concern is potential voter confusion in the ballot box, "the number of parties and candidates listed on the ballot for Senate elections in that State or Territory, and the order in which those parties and candidates are listed on the ballot paper".[52] This Court went on to wonder how, if at all, it could determine the interaction, if any, of one matter with

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3-4 (https://www.aeaweb.org/articles?id=10.1257/jep.31.2.3); Luca, *Leaders: Stop Confusing Correlation with Causation*, Harvard Business Review (5 November 2021) (https://hbr.org/2021/11/leaders-stop-confusing-correlation-with-causation)

[46] *Palmer v Australian Electoral Commission* [2019] HCA 24; 269 CLR 196 (**Palmer**) at [37] (Kiefel CJ, Bell, Keane, Nettle, Gordon and Edelman JJ)

[47] The admission in the plaintiff's pleaded reply (SCB 40), read with [25a] of the amended defence (SCB 38), does not rise to an admission that voter confusion is due to *relative ballot position as between specific parties*, which is the extra factual claim sought to be inferred from the agreed facts in the special case by the defendant.

[48] First noted in legal academic literature by: Avichai, "Equity in Politics: Name Placement in Ballots", (1979) *American Bar Foundation Research Journal*, Vol 4(1) pages 141-178

[49] SC[59.5]; Flis and Kaminski, "Party-related primacy effects in proportional representation systems: evidence from a natural experiment in Polish local elections" (2021) *Public Choice*, (definition of "ballot order effect" on first page) (https://tinyurl.com/2p8j43pv)

[50] Blom-Hansen, et-al, "Ballot position and election results: Evidence from a natural experiment", (2016) *Electoral Studies*, Vol 44, pages 172–183 (provides an extensive survey of literature at pp 172-174)

[51] Söderlund et al, "Coping with complexity: Ballot position effects in the Finnish open-list proportional representation system", (2021) *Electoral Studies*, Vol 71 (https://tinyurl.com/32bp3un4)

[52] *Palmer* at [37]

others.[53] Further likely explanators of the statistical phenomenon described at SC[57]-[81] which have not been 'controlled for' (to use the jargon) in the analysis in the special case include: the high proportion of voters who decide how they will vote while in the ballot booth (SC[39]); that half the voting population are now not 'loyal' to a particular political party (SC[38], [44]); the related phenomenon of voter 'ticket splitting' (SC[51]), of uncertain magnitude, at least in the special case;[54] the number of political parties on the ballot (which peaked at the 2013 election) (SC[45]-[47], [52]); the steadiness of the percentage level of the informal vote in elections for both Houses over that period, with the percentage level lower for Senate than for Lower House elections (SC[40]); other sources of (possible) party name confusion (SC[55]-[56], [75]); the always-present possibility of human and computer error, given that in the Senate, with its *very* complicated vote-counting procedure, small differences (or errors) in vote-counting can have significant effects on election outcomes (SC[49]-[50]).[55]

28. Finally, in relation to the discriminatory purpose of the impugned provisions,[56] based on the same analysis, the Court would have to symmetrically conclude that where the Liberal Democrats were positioned to the right of the Liberal Party (rather than the left), then the Liberal Party benefited from (alleged) voter 'confusion' in *its* favour, and to the detriment of the vote share of the Liberal Democrats.[57] There is no evidence before the Court (and there was none before the Parliament) to conclude an *asymmetric* effect of ballot order positioning. Given the statutorily required random ballot, such voter confusion as cannot be eradicated[58] is distributed via the fair

[53] It is noted that the JSCEM, in its earlier report into the 2013 federal election (SC[75]), took a milder position ("in part") than that taken in the 2019 JSCEM Report, and that it acknowledged the likelihood of other, obvious factors.

[54] So that one is not able to draw a simple inference, for example, from a strong electoral result in the 2013 federal election for the Coalition in the Lower House and a much less strong result in the same election for the Coalition in the Upper House: SC[67]-[70]

[55] *Re Parry; Re Lambie* [2018] HCATrans 6 (Nettle J) at pages 8-10; Chilingirian et al, *Auditing Australian Senate Ballots* (https://ui.adsabs.harvard.edu/abs/2016arXiv161000127C/abstract)

[56] *Palmer v Western Australia* [2021] HCA 5; 95 ALJR 229 (**Palmer s 92**) at [50] (Kiefel CJ and Keane J - "a non-discriminatory purpose")

[57] See King and Leigh (SC[72]) at page 85 (SCB at 279) ("lucky" major party "beneficiaries")

[58] Any endeavour involving (in Kant's phrase) the "crooked timber of humanity" entails some minimum level of error and confusion, including human conduct within the independent AEC: s 366 of the CEA

mechanism of randomisation[59] - and, under the Robson Rotation method of ballot order distribution, that would be even more so.[60]

29. **The real "mischief' and the true purpose:** The purpose of the impugned provisions is anti-competitive. That is not a purpose compatible with the constitutionally prescribed system of representative government. That purpose is determinable both from construction of the impugned provisions (when read in their Part XI context), and from the revelation of a competitive 'problem' in the 2019 JSCEM Report which is the real "mischief" which the impugned provisions are to 'remedy'.

30. As regards construction, the impugned provisions, in their operation, are not characterizable as being about reducing voter confusion of the kind that is supposed to be the "mischief" sought to be remedied: they permit holders of the new 'monopoly' on words to control when voters are permitted to be at risk of confusion as regards use of those words in party names – the impugned provisions envisage *some* risk of voter confusion being acceptable, whenever that risk of voter confusion is acceptable to the party granted the monopoly on the word.

31. As regards the real "mischief" revealed in the 2019 JSCEM Report, there is the following: the explicit reference to two "major parties" in [7.43], as named in [7.41];[61] an asserted "mischief" in [7.42] of voters being "misled" away (by implication, given [7.41]) from the "major parties"; the explicit reference in [7.43] to two "minor parties" impliedly (given [7.41] ("impaired")) as beneficiaries of that "mischief", and as also named in [7.41];[62] the reference at [7.43] to the two "minor parties" copying names of the "major parties", presumably "for purposes of appealing to part of the same voter base" (a phenomenon otherwise known as electoral competition); and where the "mischief" at [7.44] is further clarified as being the prevention of "a form of 'freeloading'" on the "public branding" of "another party" (by implication, the "major

[59] SC[53]; s 213 of the CEA

[60] King and Leigh, at page 86 (SC[72]) (SCB at 280); SC[54], and 2019 JSCEM Report at pages iii, xv, 20, 197-198

[61] See also Hansard, Senate, 26 August 2021, at page 5325 ("[t]his [Bill] does not just change it for the Liberal Party; it registers the important words that are used within the names of the Labor Party, the Greens and all other major parties.") (https://tinyurl.com/3smnbm6f).

[62] The 'Democratic Labor Party' and the 'Liberal Democratic Party' – as to the former party, and given the bipartisan passage of the Amending Bill, see: *Mulholland*, at footnote 227 (Kirby J)

parties"), which is the language of business school marketing modules and the policy language of the benefits of intellectual property rights.

32. Within three months of the Amending Bill coming into force, the two "major parties" explicitly referenced in [7.41] of the 2019 JSCEM Report exercised their new right pursuant to the amended s 134A to object to the continuance on the AEC's register of the two allegedly beneficiary "minor parties" explicitly referenced in [7.41] of the 2019 JSCEM Report.[63]

Ground 1 – The limiting words as a principled test against discriminatory electoral rules which substantially lessen electoral competition among political parties

10 33. **Political party competition:** As regards Part XI, political parties are only statutorily relevant to the extent that their purpose is electoral competition.[64] The constitution came into existence with the importance of political parties already a background fact.[65] The importance of political parties to the Australian political system was concisely expressed by Gleeson CJ in *Mulholland*[66] at [28]-[30] in language that could have been written by an adherent of possibly the most influential 'school' of political science during the last half-century,[67] and the only 'school' apparently capable of coherently explaining the existence and fundamental role of political parties in modern representative parliaments.[68] Political parties are 'firms' competing for the 'prize' of

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[63] SC[115] and https://tinyurl.com/4wsnd8xd (AEC notice about objection to Democratic Labour Party)

[64] See ss 4(1) (definition of "political party") and 136 (deregistration without endorsement); see generally, G Orr, *The Law of Politics* (2nd ed) (2019) The Federation Press (**Orr**) at page 113ff; G Orr (2014) *Private association and public brand: the dualistic conception of political parties in the common law world*, Critical Review of International Social and Political Philosophy, 17:3, 332-349; *Spence* at [23]

[65] *McKenzie v The Commonwealth* [1984] HCA 75; 59 ALJR 190 (**McKenzie**) (Gibbs CJ – "Members of Parliament were organized in political parties long before the Constitution was adopted")

[66] His Honour's passage repays consideration in the context of what political scientists call the (rational) 'low information' voter: Brockington, *A low information theory of ballot position effect* (2003) Political Behavior, 25(1), pp 1–27. (The rationality of the 'low information' voter is a possibly more respectful assumption of the cause of voter-behaviour in the ballot box than that which might seek to make causal assumptions based on IQ level or education level or literacy level: SC[37])

[67] A summary of this 'school' can be found in Mueller, *Public Choice II* (1989) Cambridge University Press, at pp 180-93. [There is a more recent edition.] (The locus classicus is Hotelling, "Stability in Competition," (1929) 39 *Economic Journal* 41–57, which entered political science via Downs, *An Economic Theory of Democracy*, New York: Harper and Brothers (1957))

[68] Brennan and Hamlin, *On Political Representation* (1999) British Journal of Political Science 29(1): 109-127; Brennan and Hamlin, *Rationalising Parliamentary Systems* (1993) Australian Journal of Political Science 28(3): 443-457

(the control of) parliament,[69] and as with competition among firms in commercial markets, competition among political parties in 'political markets' can occasionally lead to anti-competitive conduct.[70] Within that intellectual framework, and drawing on the language of anti-trust economics,[71] Australia's two-party political system could be characterizable as a duopoly with competitive fringe.[72] The emergence of that fringe has been largely in the last several decades, and largely due to changes in electoral law.[73] The real prospect of (anti-competitive) concerted conduct among incumbent parties in the exercise of legislative power pursuant to s 51(xxxvi) implies a core role for the limiting words as a constitutional supervisory constraint on changes to electoral law that adversely affect the nature and quality of voter choice at elections.[74]

34. **Intellectual property and political competition:** Apart from statute there is no property in name as such.[75] Political parties in Australia, when acting in trade and commerce, can utilise intellectual property for their names and logos, but when acting in a political context the common law *traditionally* has been unwilling even to recognise the tort of 'passing off' in relation to political words and political names.[76]

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[69] Brennan "Australian Parliamentary Democracy: One Cheer for The Status Quo" (February 1994) Papers on Parliament No 22 (https://tinyurl.com/2p92yk5k).

[70] Ibid ("When politicians get together and make life comfortable for themselves I think that is the model of the monopoly cartel."); see generally, Persily and Cain, *The Legal Status of Political Parties: A Reassessment of Competing Paradigms* (2000) Columbia Law Review, 100(3) pp 775-812

[71] Hasen, "Entrenching the Duopoly: Why the Supreme Court Should Not Allow the States to Protect the Democrats and Republicans from Political Competition", (1997) *The Supreme Court Review* 331 at 342-344, referenced at [169] by Gummow and Hayne JJ in *Mulholland*; Posner, *Law, Pragmatism and Democracy* (2003) at p 245 ("It should be apparent by now that the model that I am proposing to guide judicial decision making with respect to the democratic process is antitrust law."); Pildes, *The Theory of Political Competition* (1999) 85 Va L Rev 1605, at p 1614 ("The decision is much in the spirit of the functional, antitrust approach to political rights that we advocate.")

[72] OECD, *Glossary of Industrial Organisation Economics and Competition Law* (1993) at page 38 (https://stats.oecd.org/glossary/detail.asp?ID=3199) (definition of 'competitive fringe' in commercial markets)

[73] SC[48]; For the history of the rise of Australia's political 'competitive fringe', see Ghazarian, *Small Parties, Big Changes: The Evolution of Minor Parties Elected to the Australian Senate*, in Papers on Parliament No 68; and Sharman, *The Representation of Small Parties and Independents*, in Papers on Parliament No 34 (both available here: https://tinyurl.com/bdhr58pa). For a counter-perspective, see Hansard, House of Representatives, 25 August 2021, at p 8548 ("Australia has always had a long line of splinter parties—those on the fringes and on the edges.")

[74] Dahl, *Democracy and its Critics* (1991) Yale University Press

[75] *Kean v McGivan* [1982] FSR 119 (Ackner LJ)

[76] Orr at p 133, *Burge & Anor v Haycock & Anor* [2001] EWCA Civ 900 (**Burge**); *Kean v McGivan* [1982] FSR 119; *Woollard* at [40] (in the context of the implied freedom)

Political competition *assumes* party competition over policies/platforms/political traditions.[77] Successful political parties are repositories of accumulated reputational capital and their names, colours and logos can be signifiers thereof and so function, in political markets, like 'brands' in commercial markets.[78] The impugned provisions, in their practical effect, create and vest a type of intellectual property (a 'monopoly') in a political name and hence in a political brand to one party at the expense of other parties (current and potential), and do so to a degree greater than is permitted in commercial markets.[79]

35. **The burden (competitive and communicative) imposed by the impugned provisions:** As regards current parties, the competitive electoral detriment of not being registered is indicated in the substantial decline in Senate vote share for the plaintiff's party in Victoria during the 2013 federal election when compared to its Senate vote share in other States during that or other elections: SC[59.1]; see also SC[8], [10], [42]-[43]. Although the special case contains no analogous indication of the magnitude of competitive electoral detriment when a party is forced to change its name (and hence also its logo) just prior to an election, at least until reputational capital is again built up in relation to the new name (which can take years), the Court is entitled to infer that the relative magnitude of the competitive electoral detriment of a forced name change this close to an election would not be much different: SC[19]-[24]

36. As regards potential parties, they are deprived of access to the full universe of party names, thereby impairing their ability to 'position' themselves in ideological 'space' and communicate to the electorate via desired party names. A characteristic of monopolies is that both competition and innovation are substantially impaired.[80] To give some necessarily speculative examples of how such impairment now operates: the cost to the Liberal National Party of Queensland of dissolving its connection with

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[77] Snyder and Ting, "An Informational Rationale for Political Parties" (2002) *American Journal of Political Science*, 46(1) 90-110; Also, SC[30]-[36]

[78] SC[20]-[22]; Round, "By Any Other Name: Parties, Candidates and their Ballot Labels" in Orr et al (eds), *Realising Democracy: Electoral Law in Australia* (2003) The Federation Press, at pp 159ff; Gay, "What's in a Name? Political Parties, Lists and Candidates in the United Kingdom" [2001] *Public Law* 245

[79] Plaintiff's Statement of Claim at [18]-[19] (SCB at 19); *Moorgate Tobacco Co Ltd v Philip Morris Ltd* [1984] HCA 73; (1984) 156 CLR 414

[80] Yoo, "Product Differentiation", in Depoorter & Menell (eds), Vol 1 *Research Handbook on the Economics of Intellectual Property Law* (2019) Edward Elgar; Lunney, "Trademark Monopolies," (1999) 48 *Emory Law Journal* 367–486.

the Liberal Party is now considerably higher; a former leader of the Australian Greens Party would now not be able to launch a "Take back the Greens" party; future Christian-oriented parties will now have to go cap-in-hand to the Christian Democratic Party to use the word 'Christian' in a party name, despite competing for the same class of voter.

37. The detriment to the communicative aspect of a political party's name imposed by the impugned provisions, especially as regards placement – or not - on a ballot paper, cannot be untangled from the competitive electoral detriment described above[81] – hence the burden on political communication is also substantial.

38. **A demand-side test for the limiting words:** To continue to borrow from the language of anti-trust economics, the 'franchise cases'[82] were about the regulation of the 'demand side' of the 'political market', whereas this is a case dealing with regulation of the 'supply side'.[83] Therefore, "put[ting] to one side the issues of the franchise",[84] Mulholland is the only previous case of this Court broadly on point.[85]

39. In *Mulholland* the allegedly discriminatory detriment on the plaintiff of an amendment to the CEA was neither discriminatory nor a (substantial) detriment. The amendments applied to all political parties registered or seeking to register. The two requirements imposed by the amendments, of a non-overlapping membership threshold of 500 members, were relatively minor, even *de minimus*, and not characterizable as a detriment or disability.[86] Indeed, the requirements were characterizable as definitional

[81] *Mulholland* at [100] (Gummow and Hayne JJ), [283] (Callinan J)

[82] 'Franchise cases' refers to the line of this Court's authority consisting of: *Murphy*, *Rowe*, and *Roach.*

[83] In competition law, the two sides are linked, for the welfare of consumers is the object of competition law: s 2 of the *Competition and Consumer Act 2010* (Cth); *Boral Besser Masonry Ltd v Australian Competition and Consumer Commission* (2003) 215 CLR 374 at 431 [164] (Gaudron, Gummow and Hayne JJ) and 459 [260]-[261] (McHugh J). Nonetheless, in commercial markets, the demand side is not a 'side' ordinarily attracting regulatory or juridic concern, in a competition policy sense – there is no analogue to the 'franchise cases' in anti-trust policy.

[84] *Day* (S77 of 2016) - Submissions of the Second Defendant, at [20] (https://cdn.hcourt.gov.au/assets/cases/s77-2016/Day_Def2-subs.pdf)

[85] *Day* was also a 'demand side' case, but no inter-party discrimination was alleged in that case.

[86] It is possible to speculate on some future amendment in which the membership threshold were to be increased to an extent that the Court might then infer that the detriment was substantially discriminatory to some class of party, or even that the detriment was of such an extent that only the two "major parties" would be capable of meeting the new threshold: *Mulholland* at [268] (Kirby J)

to the words 'political party', in circumstances where a definition was required: *Mulholland* at [268] (Kirby J), [364] (Heydon J)

40. The justices in *Mulholland* discussed a test of discrimination, and did so impliedly in a context of a possible anti-competitive effect.[87] That implication is derived from the fact that the various justices considered the then-recent Canadian case of *Figueroa*, which involved a challenge to an electoral law that imposed a requirement that a political party nominate at least 50 candidates in a federal election in order to be registered.[88] That was "a very substantial requirement by Australian standards".[89]

41. The nature of democratic politics is competition - the discriminatory privilege of one is the burden of another: *Mulholland below* at [18]-[20]. The limiting words form part of, and are to be read in the context of, the constitution's mandate (in ss 7, 13, 28) for regular and periodic refreshing of the people's representation in the parliament.[90] The intended indefinitely enduring nature of the Constitution implies that, at each mandated time of refreshment, political parties are to be, as near as practicable, competitively equal.[91]

42. A *change*[92] in electoral law enacted pursuant to s 51(xxxvi) lessens electoral competition when, through legal or practical effect, it discriminates against a party or class of parties with anti-competitive effect. That is what was meant by the word 'unreasonable' in *Mulholland*, when attached to the word 'discrimination'. Anti-competitive effect means no more than that the implied constitutional requirement of equal treatment of parties *during constitutionally mandated periodic elections* is

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[87] *Mulholland* at [19]-[21] (Gleeson CJ), [81]-[87] (McHugh J), [100], [145]-[147] (Gummow and Hayne JJ), [348]-[351] (Heydon J); see also *Palmer s 92* at [31] (Kiefel CJ and Keane J – constitutional test of discrimination)

[88] *Mulholland* at [23]-[25] (Gleeson CJ), [75]-[77] (McHugh J), [170]-[172] (Gummow and Hayne JJ), [345]-[347] (Heydon J). And see also the discussion by Gummow and Hayne JJ of some relevant US cases on US electoral law at [165]-[169], including at footnote 189 of [169] the references to US academic literature utilising or referencing the 'antitrust economics' perspective of judicial oversight of electoral law changes.

[89] *Mulholland* at [23] (Gleeson CJ) – noting the word 'substantial'.

[90] Stellios, *Zines's The High Court and the Constitution* (6th ed) The Federation Press (2015), at page 570 ("There is something artificial in the implied freedom argument in the context of *Mulholland*. What was at stake was the system of representative government of which the implied freedom is merely one necessary incident.")

[91] *Mulholland* at [338] (Callinan J) ("the appellant needed to identify an implied constitutional right of non-discrimination")

[92] *Rowe* at [25] (French CJ – "it is the change effected by the law that must be considered")

contravened in some real, practical, and substantial sense. Under this ground, the persuasive onus is on the plaintiff.[93]

43. For reasons already given, the impugned provisions, in both legal and practical effect, discriminate in an anticompetitive sense against the plaintiff's political party (on whose behalf he also initiated these proceedings: SC[10]). They also discriminate with anti-competitive effect against potential parties, and thus permanently alter, in the sense of a structural change, the competitive landscape of all future federal elections.

44. Given the Court's current state of constitutional jurisprudence, the constitutional context of the limiting words likely means that a *McCloy*-like 'proportionality' justification is not part of the constitutional test.[94] (Given the submissions below, it would not make a difference in this case.) It is questionable whether, in this constitutional context, any justification should be part of the constitutional test: the "people of the Commonwealth" might expect at least the same protection of the "process of choice"[95] in Australia's federal 'political market' as obtains in any other "market in Australia".[96]

45. In the alternative, for reasons already given, the anti-competitive purpose of the impugned provisions cannot be characterised as a "substantial reason", or even a reason, at least in the original, narrow sense of that phrase[97] as not also importing proportionality considerations.[98] Even accepting the defendant's purported purpose (or mischief, or 'reason') for the impugned provisions, that purpose is neither substantial (given the narrowness of its described concern) nor is it compatible with the constitutionally prescribed system of representative government (given it is discriminatory).[99]

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[93] This requires a demonstration only of the likely effect upon the plaintiffs' party's ability to compete in an election, by analogy with: *Betfair Pty Limited v Racing New South Wales* [2012] HCA 12; 249 CLR 217 at [63]-[64] (Heydon J), [119]-[120] (Kiefel J)

[94] *Falzon* at [25] (Kiefel CJ, Bell, Keane and Edelman JJ); *Murphy* at [296]-[297] (Gordon J); *Rowe* at [428], [444], [466], [478] (Kiefel J); *Roach* at 178-179 [17] (Gleeson CJ)

[95] *Re Canavan* [2017] HCA 45; (2017) 91 ALJR 1209 at 1213 [3]

[96] *Air New Zealand Ltd v Australian Competition and Consumer Commission* [2017] HCA 21; 262 CLR 207

[97] *McGinty v Western Australia* [1996] HCA 48; (1996) 186 CLR 140 at 170 (Brennan CJ)

[98] *Murphy* at [28]-[30] (French CJ and Bell J); [84]-[85] (Gageler J)

[99] *Palmer s 92* at [50] (Kiefel CJ and Keane J – "a non-discriminatory purpose" required in the context of a constitutional test based on discrimination)

Ground 2 – The impugned provisions contravene the implied freedom

46. **Burden:** It is common ground between the parties that a political party's name is a form of electoral communication.[100] By analogy, that is also the case for party abbreviations and logos. It is especially a potent form of political communication when placed on ballot papers:[101] SC[42]-[43]. For reasons already given, the communicative burden imposed by the impugned provisions is substantial.

47. **Compatibility:** For reasons already given, the purpose of the impugned provisions is anti-competitive. That is not a purpose compatible with the maintenance of the constitutionally prescribed system of representative government. In the alternative, the ostensible "mischief" sought to be remedied by the impugned provisions, and hence the purpose or object of the impugned provisions, is narrowly described.[102] The defendant is to be held to the narrowness of that purpose, a purpose which, in the context of statutorily-prescribed randomised ballot placement (SC[53]), is not characterizable as compatible with the maintenance of the constitutionally prescribed system of representative government.

48. **Justification:** The impugned provisions are not justified according to the *McCloy*-tripartite test:[103]

    a) *Suitability:* The impugned provisions bear no rational connection to the narrow purpose contended for by the defendant. The word-veto (and hence name-veto) granted to the first-registered party is irrational and unexplained. Why not the last-registered party? Or the second registered party? Or any registered party as against potential parties?

    b) *Necessary:* Provisions already exist in the *CEA* which deal with party name confusion. The defendant, who has the persuasive onus on this ground, has not proven or justified why those provisions are to be considered insufficient. An obvious and compelling alternative, that of varying the ballot randomisation

[100] Amended defence at [21a] (SCB at 38)

[101] *Mulholland* at [30]-[32] (Gleeson CJ); [277], [284]-[285] (Kirby J); *Mulholland below* at [22]

[102] *Brown* at [101] (Gageler J)

[103] *McCloy* at [2] (French CJ, Kiefel, Bell and Keane JJ). For broadly the same reasons, the impugned provisions are also not reasonably required: *Unions No 2* at [93]-[96] (Gageler J), [151] (Gordon J)

among different locations, is non-discriminatory and less-burdensome, and is already in use in some Australian jurisdictions:[104] SC[54]

c) *Adequate in its balance:* The relative importance of the narrow purpose of the impugned provisions (on the defendant's case) compares unfavourably with the serious and permanent burden placed on the political communications of a class of parties, current and potential, who are and will be deprived of the ability to compete politically along important political dimensions in all future elections in all Australian political jurisdictions.

PART VII ORDERS SOUGHT

49. The Court should grant a declaration of constitutional invalidity of the impugned provisions and order costs in the plaintiff's favour.

PART VIII TIME FOR ORAL ARGUMENT

50. Up to 3.5 hours will be required by the plaintiff for oral submissions, including reply.

Date: 4 January 2022

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[104] See the importance to the Court's conclusion on justification - or proportionality - of the existence of Tasmania's alternative regulatory scheme in *Betfair Pty Ltd v Western Australia* [2008] HCA 11; 234 CLR 418 at [110] (Gleeson CJ, Gummow, Kirby, Hayne, Crennan and Kiefel JJ)

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN: John Ruddick
Plaintiff

and

Commonwealth of Australia
Defendant

ANNEXURE OF CONSTITUTIONAL PROVISIONS, STATUTES AND STATUTORY INSTRUMENTS REFERRED TO IN SUBMISSIONS

CONSTITUTIONAL PROVISIONS

1. Section 7
2. Section 13
3. Section 24
4. Section 28
5. Section 51 (xxxvi)
6. Section 51 (xxxix)

STATUTES (All as at date of submissions)

7. *Acts Interpretation Act 1901* (Cth).
8. *Commonwealth Electoral Act 1918* (Cth).
9. *Commonwealth Electoral Legislation Amendment Act 1983* (Cth).
10. *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* (Cth).
11. *Competition and Consumer Act 2010* (Cth).
12. *Electoral Legislation Amendment (Party Registration Integrity) Bill 2021.*

STATUTORY INSTRUMENTS – N/A

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