HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 23 Dec 2020 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number:	S129/2020
File Title:	Zhang v. The Commissioner of Police & Ors
Registry:	Sydney
Document filed:	Form 27C - Intervener's submissions
Filing party:	Interveners
Date filed:	23 Dec 2020

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. 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 and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN:

JOHN SHI SHENG ZHANG
Plaintiff

and

THE COMMISSIONER OF POLICE
First Defendant

JANE MOTTLEY
Second Defendant

JOSEPH KARAM
Third Defendant

MICHAEL ANTRUM
Fourth Defendant

SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

Part I: PUBLICATION OF SUBMISSIONS

1. This submission is in a form suitable for publication on the internet.

Part II: INTERVENTION

2. The Attorney-General for the State of South Australia (**South Australia**) intervenes pursuant to s 78A of the *Judiciary Act 1903* (Cth) in support of the First Defendant.

Part III: LEAVE TO INTERVENE

3. Not applicable.

Part IV: SUBMISSIONS

4. South Australia intervenes to make submissions in relation to the third and fourth questions stated for the opinion of the Full Court, namely whether ss 92.3(1) and 92.3(2) of the *Criminal Code* (Cth), contained within Schedule 1 of the *Criminal Code Act 1995* (Cth) (**the impugned provisions**), are invalid because they impermissibly

burden the implied freedom of political communication. South Australia confines its submissions to principles relevant to the issue of whether the impugned provisions pursue a legitimate end.

5. South Australia submits that even if the Court accepts that at some level of generality the impugned provisions serve a purpose of the kind identified by the Plaintiff then, contrary to the Plaintiff's submission,[1] that purpose is not incompatible with the constitutionally prescribed system of representative and responsible government.

6. A purpose of preventing undisclosed or non-transparent foreign influence over Australian political or governmental processes is a purpose that promotes transparency of foreign influence over those processes. Transparency of foreign influences over those processes:

    a. protects against actual and perceived corruption and undue influence;

    b. better secures informed electoral choices; and

    c. better secures informed government decision-making.

Such a purpose is not only compatible with our system of representative and responsible government, it *preserves and enhances* that system and is necessarily legitimate.

Compatibility testing

7. The parties agree[2] that the constitutional validity of the impugned provisions is to be determined through the application of the three-stage test espoused in *McCloy v New South Wales*[3] (***McCloy***) and *Brown v Tasmania*.[4]

    a. The first stage asks whether the impugned law effectively burdens the implied freedom of political communication in its terms, operation or effect. No further analysis need occur if a law does not effectively burden the implied freedom.[5]

---

1 Plaintiff's Submissions (**PS**) at [45].
2 PS at [29]; Joint Annotated Submissions of the First Defendant and the Attorney-General of the Commonwealth (intervening) (**CS**) at [17].
3 (2015) 257 CLR 178, 193-195 [2] (French CJ, Kiefel, Bell and Keane JJ).
4 (2017) 261 CLR 328, 363-364 [104] (Kiefel CJ, Bell and Keane JJ), 375-376 [155]-[156], 416 [277] (Nettle J), 478 [481] (Gordon J).
5 *McCloy v New South Wales* (2015) 257 CLR 178, 193-195 [2] (French CJ, Kiefel, Bell and Keane JJ), 230-231 [126] (Gageler J), 258 [220] (Nettle J), 280-281 [306] (Gordon J).

b. The second stage asks whether the purpose of the law is legitimate, in the sense that it is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government.

c. The third stage asks whether the law is reasonably appropriate and adapted to advance that legitimate object in a manner that is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government. A law "may be regarded as reasonably appropriate and adapted or proportionate to the achievement of a legitimate object if the law is suitable, necessary and adequate in its balance".[6]

8. South Australia's submissions are directed to the second stage of the test, namely whether the impugned provisions pursue a legitimate end. Central to the analysis is identification of the purpose of the law. The purpose is identified by ordinary process of statutory construction with particular attention to the mischief or mischiefs to which the law is directed.[7] In identifying the law's purpose at the level of abstraction relevant to the constitutional task, it is imperative not to elide a law's objects with its means and practical effects.[8]

9. Once the purpose has been identified at the appropriate level of abstraction, the inquiry proceeds to consideration of whether that purpose is legitimate, in the sense that it is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government. Again, the distinction between the law's objects and its means and practical effects must be maintained. Incompatibility does not result merely because a law has a burdening *effect* on the free flow of political communication: the entire premise of the second and third stages of the test is that a law with a burdening effect may be justified in the pursuit of some other end.[9] Nor does incompatibility result merely because a law employs *means* that effect a burden.

---

6 *Comcare v Banerji* (2019) 93 ALJR 900, 913 [32] (Kiefel CJ, Bell, Keane and Nettle JJ).

7 *Brown v Tasmania* (2017) 261 CLR 328, 362 [96], 363 [101] (Kiefel CJ, Bell and Keane JJ), 391 [208] (Gageler J), 432 [321] (Gordon J); *McCloy v New South Wales* (2015) 257 CLR 178, 232 [132] (Gageler J).

8 See *McCloy v New South Wales* (2015) 257 CLR 178, 205 [40] (French CJ, Kiefel, Bell and Keane JJ); *Brown v Tasmania* (2017) 261 CLR 328, 362-363 [100] (Kiefel CJ, Bell and Keane JJ); *Clubb v Edwards* (2019) 93 ALJR 448, 504 [257] (Nettle J).

9 *McCloy v New South Wales* (2015) 257 CLR 178, 193-194 [2(A)] (French CJ, Kiefel, Bell and Keane JJ).

The compatibility of means is to be determined by the graduated inquiry demanded of proportionality testing that occurs at the third stage of the test.[10]

10. To be compatible with our system of representative and responsible government, a legislative purpose need not positively *promote* or *enhance* that system. While a purpose that does so will necessarily be legitimate, the promotion and enhancement of that system does not mark the bounds of legitimate legislative purposes.[11] Laws will often pursue objects unrelated to the system of representative and responsible government. Those objects will be legitimate so long as they are not incompatible with that system.[12]

10 11. Nor does a legislative end need to pursue some public benefit as endorsed by the judicial branch of government. It is for Parliament to determine the policies it pursues in making laws for peace, order and good governance. The need to "respect parliamentary policy"[13] and the limits of "legitimate judicial scrutiny"[14] are reflected in the second stage of the test. The second stage does not invite the Court to sit in judgment of the policy choices made by Parliament. Rather, the second stage requires the Court to consider whether a law pursues a purpose that is incompatible with our system of representative and responsible government: a purpose that would "impede the functioning of that system and all that it entails".[15] In this respect, the application of the compatibility test would appear to differ from the test developed in other
20 jurisdictions.[16] In the Australian context, so long as a legislative purpose does not impede the constitutionally prescribed system of representative and responsible government, it will be legitimate.[17]

A legislative end that promotes transparency is legitimate

12. The Plaintiff submits that the impugned provisions pursue the purpose of "the prevention of any potential undisclosed or non-transparent foreign influence over Australian political or governmental processes, or over Australian democratic political

---

10 *Brown v Tasmania* (2017) 261 CLR 328, 363-364 [104] (Kiefel CJ, Bell and Keane JJ), 478 [480]-[481] (Gordon J).
11 *Monis v The Queen* (2013) 249 CLR 92, 148 [128] (Hayne J); *Brown v Tasmania* (2017) 261 CLR 328, 432 [320] (Gordon J).
12 *Brown v Tasmania* (2017) 261 CLR 328, 432 [321] (Gordon J).
13 *Comcare v Banerji* (2019) 93 ALJR 900, 936 [165] (Edelman J).
14 *Mulholland v Australian Electoral Commission* (2004) 220 CLR 181, 197 [33] (Gleeson CJ).
15 *McCloy v New South Wales* (2015) 257 CLR 178, 203 [31] (French CJ, Kiefel, Bell and Keane JJ).
16 For a discussion on compatibility testing in other jurisdictions see A Barak, *Proportionality: Constitutional Rights and Their Limitations* (2012), 245-302.
17 *Clubb v Edwards* (2019) 267 CLR 171, 194 [44] (Kiefel CJ, Bell and Keane JJ).

rights or duties, regardless of whether that influence is malicious, harmful to, or in conflict with, the interests of Australia".[18] The Plaintiff says this purpose is incompatible with the maintenance of our system of representative and responsible government because it "prevents communication within the Australian political system of advancing policy positions favourable to foreign actors".[19]

13. The First Defendant and the Attorney-General of the Commonwealth (intervening) (**Commonwealth**) submit that the impugned provisions pursue the purpose of "protecting Australia's sovereignty by reducing the risk of foreign interference in Australia's political or governmental processes", which they say is not only legitimate but serves to preserve and enhance the system of representative and responsible government.[20]

14. South Australia makes no submission as to the proper purpose of the impugned provisions. Nothing in this submission should be understood as detracting from the submissions put by the Commonwealth about the purpose of those provisions.

15. South Australia submits that even if the Court accepts that at some level of generality the impugned provisions serve a purpose of the kind identified by the Plaintiff (be that the only purpose of the provisions, or an ancillary purpose to that posited by the Commonwealth) then, contrary to the Plaintiff's submission,[21] that purpose is not incompatible with the constitutionally prescribed system of representative and responsible government.

16. The Plaintiff submits that the purpose is illegitimate "because it prevents communication within the Australian political system of advancing policy positions favourable to foreign actors".[22] While it is doubtful that this is the effect of the provisions,[23] to reason that the *purpose* of the provisions is illegitimate by reference to their burdening *effect* elides the purpose of a law with its operation and effect.

17. A purpose of preventing undisclosed or non-transparent foreign influence over Australian political or governmental processes is a purpose that promotes transparency of foreign influence over those processes. For the reasons that follow, such a purpose

---

18 PS at [36].
19 PS at [45].
20 CS at [33], [36].
21 PS at [45].
22 PS at [45].
23 See CS at [38].

is not only compatible with our system of representative and responsible government, it *preserves and enhances* that system and is necessarily legitimate.

Transparency protects against actual and perceived corruption and undue influence

18. This Court has acknowledged the important role transparency plays in our system of representative and responsible government in protecting our institutions of government from actual and perceived corruption and undue influence.

19. In *Unions NSW v New South Wales* (***Unions***),[24] the plurality accepted that the general purpose of Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981* (NSW) (**the EFED Act**) was to secure and promote the actual and perceived integrity of the Parliament and other institutions of government in New South Wales in circumstances where undue, corrupt or hidden influences over those institutions, their members or their processes presented an integrity risk. The plurality also accepted that the general provisions of the EFED Act that sought to remove the need for and the ability to make large-scale donations to a party or candidate, together with the provisions that required public scrutiny of donations and expenditure, were directed to that mischief.[25] The Court did not doubt the legitimacy of that purpose, but held that the impugned provisions did not have a rational connection with that purpose in the way that the general provisions did.[26]

20. In *McCloy*, the Court considered provisions of the EFED Act which imposed a cap on political donations and prohibited political donations from certain donors. Following *Unions*, the EFED Act had been amended to insert an express statement of legislative object, which included "to establish a fair and transparent election funding, expenditure and disclosure scheme", "to facilitate public awareness of political donations" and "to help prevent corruption and undue influence in the government of [New South Wales]".[27] The plurality observed that the impugned provisions were most clearly directed to the third of these objects, and perhaps also the ancillary purpose of

---

24 (2013) 252 CLR 530, 545 [8], 557 [49], 558 [53] (French CJ, Hayne, Crennan, Kiefel and Bell JJ). See also *McCloy v New South Wales* (2015) 257 CLR 178, 196 [7] (French CJ, Kiefel, Bell and Keane JJ).

25 *Unions NSW v New South Wales* (2013) 252 CLR 530, 558 [53] (French CJ, Hayne, Crennan, Kiefel and Bell JJ). See also *McCloy v New South Wales* (2015) 257 CLR 178, 197 [9] (French CJ, Kiefel, Bell and Keane JJ).

26 *Unions NSW v New South Wales* (2013) 252 CLR 530, 557 [51], 558 [53] (French CJ, Hayne, Crennan, Kiefel and Bell JJ).

27 Quoted in *McCloy v New South Wales* (2015) 257 CLR 178, 197 [8] (French CJ, Kiefel, Bell and Keane JJ).

overcoming perceptions of corruption and undue influence.[28] The Court considered that these purposes were not only compatible with the system of representative government, but in fact preserved and enhanced that system.[29] In considering whether the measures were appropriate and adapted to the pursuit of that legitimate end, the plurality acknowledged the importance of requiring the disclosure of donations, before holding that disclosure alone could not be as effective as capping donations in achieving the anti-corruption purposes of the impugned legislation.[30]

Transparency better secures informed electoral choices

21. The importance of transparency to our system of representative and responsible government has long been recognised. In *Smith v Oldham,*[31] this Court acknowledged that transparency better secures informed electoral choices. The Court considered a provision of the *Commonwealth Electoral Act 1902-1911* (Cth) which required that during an election period, authors disclose their name and address on every publication commenting upon any candidate, political party, or issue being submitted to electors.

22. After observing that attribution requirements in electoral laws had not been uncommon for at least the last half century, Griffith CJ stated that "the freedom of choice of the electors at elections may be influenced by the weight attributed by the electors to printed articles, which weight may be greater or less than would be attributed to those articles if the electors knew the real authors".[32] His Honour explained that "many electors…rely upon authority; and they be less likely to be misled or unduly influenced if they know the authority upon which they are asked to rely".[33] His Honour found that the impugned provision was supported by the Commonwealth Parliament's power to make laws regulating the conduct of persons in regard to elections.

23. To similar effect, Isaacs J stated that it was of "first importance" that an elector "not be led by misrepresentation or concealment of any material circumstance", even innocently, "into forming and consequently registering a political judgment different

---

28 *McCloy v New South Wales* (2015) 257 CLR 178, 203 [33], 204 [34] (French CJ, Kiefel, Bell and Keane JJ).
29 *McCloy v New South Wales* (2015) 257 CLR 178, 208 [47], 209 [53] (French CJ, Kiefel, Bell and Keane JJ).
30 *McCloy v New South Wales* (2015) 257 CLR 178, 211 [61] (French CJ, Kiefel, Bell and Keane JJ).
31 (1912) 15 CLR 355.
32 *Smith v Oldham* (1912) 15 CLR 355, 358 (Griffith CJ).
33 *Smith v Oldham* (1912) 15 CLR 355, 358 (Griffith CJ).

from that which he would have formed and registered had he known the real circumstances".[34] His Honour went on to say:[35]

> Even when nothing is conveyed but advice or opinion, the identity of the person proferring it, if not withheld, might for various reasons seriously affect its value and weight in the minds of the electors. The testimony of a witness in a Court of Justice might be differently appraised if his true personality were undisclosed, or if, on the other hand, his interest, his experience, and possibly, his past career, were placed before the jury.
>
> Not less important may be the personality of those who by the most extensive and effective means known to society disseminate in a great national controversy their assertions of facts, opinions, and advice, for the very purpose of influencing the result.

This was sufficient to sustain the provision as a valid exercise of Commonwealth legislative power.[36]

24. While *Smith v Oldham* was decided well before this Court discerned the existence of the implied freedom of political communication, that does not detract from the significance of the decision for present purposes. Its significance lies in the Court's identification of the role that transparency plays in better securing the informed vote of electors. Transparency regarding the source of communications ensures voters are duly informed. Far from being incompatible with our system of representative and responsible government, *Smith v Oldham* supports a conclusion that transparency of influence of electors preserves and enhances that system. South Australia submits that a purpose of that kind is necessarily legitimate.

25. The importance of transparency in ensuring informed electoral choice has also been recognised in other liberal democracies. In *Harper v Canada (Attorney General)*,[37] the Supreme Court of Canada upheld the validity of legislative provisions that imposed attribution, registration and disclosure requirements in federal elections. The majority held the provisions did not infringe the right to vote protected by s 3 of the *Canadian Charter of Rights and Freedoms* (***Charter***) because they enhanced that right.[38] Their

---

34 *Smith v Oldham* (1912) 15 CLR 355, 362 (Isaacs J).

35 *Smith v Oldham* (1912) 15 CLR 355, 363 (Isaacs J).

36 Justice Issacs also considered this conclusion was supported by precedent. His Honour referred to *Alcott v Emden* (1904) 68 JP 434 where the Court of King's Bench Division upheld a conviction for an offence against an attribution requirement in an electoral law. Isaacs J observed that in that case "[t]he substantial consideration is that for the better securing a true election the disclosure of authorship was insisted on": 364.

37 [2004] 1 SCR 827.

38 *Harper v Canada (Attorney General)* [2004] 1 SCR 827, 897-898 [140] (Bastarache J delivering the judgment of Iacobucci, Bastarache, Arbour, LeBel, Deschamps and Fish JJ).

Honours accepted that transparency advances an informed vote because, with disclosure, voters are made aware of who contributes and who spends in the electoral process and thus who stands behind electoral communications.[39] While their Honours found that the provisions limited the freedom of expression protected by s 2(b) of the *Charter*, the limitation was held to be justified.[40] One of the objectives advanced by the provisions was to provide voters with relevant election information, which was said to be a pressing and substantial objective given it enhances the *Charter* value of informed voting.[41] The minority also upheld the validity of the attribution, registration and disclosure requirements, finding they "serve the interests of transparency and an informed vote in the political process" and were justified.[42]

26. In *BC Freedom of Information and Privacy Association v British Columbia (Attorney General)*,[43] the Supreme Court of Canada upheld the validity of a law imposing registration requirements on third party "sponsors" of election "advertising" during elections. The Court found that the legislative purpose "was to allow 'ordinary citizens' to 'clearly see' who is behind the messages they receive during a campaign period, thus promoting informed voting."[44] The Court held that to "increase transparency, openness, and public accountability in the electoral processes, and thus to promote an informed electorate" was a pressing and substantial objective.[45]

27. In *Viereck v United States*,[46] the Supreme Court of the United States considered whether a conviction for failure to disclose certain activities undertaken by a foreign agent could be sustained. After observing the general purpose of the legislation was to "identify agents of foreign principals who might engage in subversive acts or in spreading foreign propaganda, and to require them to make public record of the nature of their employment", the majority held that as a matter of statutory construction, the law only required disclosure of those activities that a foreign agent carried out on

---

39 *Harper v Canada (Attorney General)* [2004] 1 SCR 827, 898 [140] (Bastarache J).
40 *Harper v Canada (Attorney General)* [2004] 1 SCR 827, 897 [138]-[139], 898-900 [142]-[146] (Bastarache J).
41 *Harper v Canada (Attorney General)* [2004] 1 SCR 827, 898 [142].
42 *Harper v Canada (Attorney General)* [2004] 1 SCR 827, 853 [48] (McLachlin CJ and Major J delivering the judgment of McLachlin CJ, Major and Binnie JJ).
43 (2017) 1 SCR 93, 119 [59] (McLachlin CJ delivering the judgment of the Court).
44 *BC Freedom of Information and Privacy Association v British Columbia (Attorney General)* (2017) 1 SCR 93, 110-111 [34] (McLachlin CJ).
45 *BC Freedom of Information and Privacy Association v British Columbia (Attorney General)* (2017) 1 SCR 93, 117 [51] (McLachlin CJ).
46 318 US 236 (1942).

behalf of a foreign principal.[47] Their Honours said that "[w]hile Congress undoubtedly had a general purpose to regulate agents of foreign principals in the public interest by directing them to register and furnish such information as the Act prescribed", the Court could not add other requirements merely because they think "they might more successfully have effectuated that purpose".[48] Justice Black observed that the legislation was:[49]

> intended to provide an appropriate method to obtain information essential for the proper evaluation of political propaganda emanating from hired agents of foreign countries. … Resting on the fundamental constitutional principal that our people, adequately informed, may be trusted to distinguish between the true and the false, the bill is intended to label information of foreign origin so that hearers and readers may not be deceived by the belief that the information comes from a disinterested source.

His Honour held that such legislation implements, rather than detracts from, the prized freedoms guaranteed by the First Amendment.[50]

Transparency better secures informed government decision-making

28. The promotion of transparency of influence over Australian political and governmental processes is also important to better secure informed decisions in the exercise of legislative and executive power. Just as electors may form different electoral judgments where they know the "real circumstances" underlying assertions of fact, opinions and advice,[51] including the identity of the persons making those assertions and the interests they may seek to advance, so too may Members of Parliament, Ministers and administrative decision-makers form different judgements in the exercise of legislative and executive power where those circumstances are known.

29. The importance of informed decision-making to the functioning of our system of representative and responsible government is undeniable. In *Comcare v Banerji*,[52] this Court reflected on the significance of governments receiving high quality, frank and impartial advice from public servants. This was said to be "highly desirable if not essential to the proper functioning of the system of representative and responsible

---

47 *Viereck v United States*, 318 US 236, 241, 247 (Chief Justice Stone delivering the opinion of the Court) (1942).
48 *Viereck v United States*, 318 US 236, 241, 243-244 (Chief Justice Stone) (1942).
49 *Viereck v United States*, 318 US 236, 251 (Douglas J concurring) (1942). Justice Black was in dissent in the result, taking a different view of the appropriate construction of the relevant provision.
50 *Viereck v United States*, 318 US 236, 251 (1942).
51 *Smith v Oldham* (1912) 15 CLR 355, 362-363 (Isaacs J).
52 (2019) 93 ALJR 900.

government"[53] and to "enhance both the exercise of the executive power of the Commonwealth and the political accountability of Ministers for the exercise of the executive power of the Commonwealth".[54] Those external to the public service are, of course, not subject to the requirement of impartiality: they may seek to influence government in the furtherance of their own interests and consistently with their own beliefs. But the decision highlights the importance of well-informed exercises of governmental powers to the functioning of our system of representative and responsible government and to public confidence in that system.

30. The importance of well-informed decisions is not confined to decisions made at high levels of government: it applies at all levels. The rule of practice that "when making a decision, administrative decision-makers are generally obliged to have regard to the best and most current information available" is a recognised "feature of good public administration".[55]

31. Moreover, in observing that the freedom of political communication was not "one-way traffic" in *Australian Capital Television Ltd v Commonwealth*,[56] Mason CJ described the purpose of our system of representative and responsible government as being "government by the people through their elected representatives". His Honour reflected on the need for elected representatives to "ascertain the views of the electorate" and the importance of freedom of communication in enabling the government "to be responsive to the needs and wishes of the people".[57] Since transparency allows elected representatives to know the real circumstances underlying assertions of fact, opinions and advice, it can only assist the elected representatives to discern the needs and wishes of the people and thereby fulfill the purpose of representative government.

Conclusion

32. A purpose that promotes transparency of influence over political and government processes is, for the reasons outlined above, not only compatible with our constitutionally prescribed system of representative and responsible government, it is

---

53 *Comcare v Banerji* (2019) 92 ALJR 900, 913 [34] (Kiefel CJ, Bell, Keane and Nettle JJ).
54 *Comcare v Banerji* (2019) 93 ALJR 900, 925-926 [101] (Gageler J).
55 *Shi v Migration Agents Registration Authority* (2008) 235 CLR 286, 299 [41] (Kirby J). See also *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24, 45 (Mason J).
56 (1992) 177 CLR 106, 139.
57 *Australian Capital Television Ltd v Commonwealth* (1992) 177 CLR 106, 139.

"framed to enhance the practical operation"[58] of that system. In South Australia's submission, it is necessarily legitimate.

33. It follows that even if the Court accepts that at some level of generality the impugned provisions serve a purpose of the kind identified by the Plaintiff, contrary to the Plaintiff's submission, that purpose is not incompatible with the constitutionally prescribed system of representative and responsible government.

Part V: TIME ESTIMATE

34. It is estimated that 20 minutes will be required for the presentation of South Australia's oral argument.

10

Dated 23 December 2020

.....
M J Wait SC
Telephone: (08) 8207 1563
20 Email: Michael.Wait@sa.gov.au

.....
K M Scott
Telephone: (08) 8204 2085
Email: Kelly.Scott@sa.gov.au

58 *Comcare v Banerji* (2019) 93 ALJR 900, 925 [100] (Gageler J).

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN:

JOHN SHI SHENG ZHANG
Plaintiff

and

THE COMMISSIONER OF POLICE
First Defendant
JANE MOTTLEY
Second Defendant
JOSEPH KARAM
Third Defendant
MICHAEL ANTRUM
Fourth Defendant

ANNEXURE
PROVISIONS REFERRED TO IN THE SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

Number	Description	Date in Force	Provision
Constitutional Provisions			
1	*Commonwealth Constitution*	Current	
Statutes			
2	*Commonwealth Electoral Act 1902-1911* (Cth)	22 December 1911	s 181AA
3	*Criminal Code Act 1995* (Cth)	Current	s 92.3
4	*Election Funding, Expenditure and Disclosures Act 1981* (NSW)	3 April 2013	Part 6
5	*Election Funding, Expenditure and Disclosures Act 1981* (NSW)	28 October 2014	s 4A, Div 2A, Div 4A
6	*Judiciary Act 1903* (Cth)	Current	s 78A