

# Flora News

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## The Land Ownership Issue

*Information on Constitutional issues, our Land Ownership Rights and whether Government can do what they tell us they can.*

If I was to ask you how you owned your land, how would you answer?

If you were like approx 90% of the community you would say you had Freehold land, or Torrens Title.

You would be wrong on both counts.

The most precious thing you can own is your land, and most of us enter into the purchase, take out a mortgage which we take 30 years to pay off and we do not know what we own.

Land Ownership underlies almost every right we have been given.

And that lack of knowledge is what politicians and their big business advisers are using to remove your ownership rights.

Learn or lose. There is not much time left.

## A Grant in Fee Simple Title

### *The Abolition of Tenures Act 1660*

In 1660, the Crown, at that time King Charles II, could no longer afford the upkeep of land and services to His subjects therefore he abolished old tenures and allowed a statute law to be enacted for the sale of the lands of the Crown.

### *Original Letters Patent to Governor Philip*

In the early days of the colony at Botany Bay, Governor Philip could only transfer the ownership from the Crown to the original settlers after nominating a parcel of land. This then had to be surveyed, and given a Lot number for identification.

### *Register of Lots*

The officers of the Crown had then to make entries in the register of Lots. The title deed that ensued carried a Volume number, folio number and the Lot numbers.

### *A Grant in Fee Simple Title Deed*

All land in Australia was sold into private hands through a Grant in Fee Simple Title. The new owner of this title was required to hold a Deed.

The original deeds were signed by the Governor of the State, after first determining that all purchase monies had been paid. *“Now Know Ye that for and in consideration of the said sum for and on Our behalf well and truly paid into the Treasury of Our said State before these Presents are issued and of all and singular the premises, WE HAVE GRANTED and for Us Our heirs and Successors DO HEREBY GRANT unto the said H.W.T, Heirs and Assigns.....subject nevertheless to the several and respective reservations hereinafter contained that We do Reserve unto Us Our Heirs and Successors all minerals.....”*

The Governor signed *“In witness whereof I have hereunto signed my name and affixed my Seal....”*

This then, is a very legal Instrument of Law, a Contract with not just with the Crown via the Seal, but with the actual Sovereign Majesty, his/her Heirs and Successors. This Instrument is a Deed in Trust with the current Queen Elizabeth as the Successor to the Crown; it is a Trust in Inheritance and a Trust in Equity. That means that the act of purchase of a Grant in Fee Simple Title carries the right to pass on the estate through an Inheritance, a right which is protected by the Constitutional courts of Australia.

A Trust in Equity is the purchaser's right to retain his equity (equality) of value in his land. So that when the Parliament requires the resumption of the land the Crown has sold, it must be under Just Terms Compensation.

### *What does a Grant in Fee Simple Title give us?*

There are 4 elements of ownership that are carried in a Fee Simple Title Deed.

1. The purchase of any structures or buildings that are on the land - *tenements*
2. The right to build any structures of any kind on the land - *messuages*
3. The right of ownership of all natural elements on the land, to an indefinite extent above the land, and to the very centre of the earth – *corporeal hereditaments*
4. The right to use the land in any manner including to waste the land. (Waste being a legal term meaning to take back to bare rock or destroy) – *incorporeal hereditaments*

### **The rights DO NOT include:**

1. Ownership of any water on the land as water cannot be owned, as it is moveable. You have only the use of the water while it is **on** the land.

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2. The right to injure a neighbour's enjoyment and use of his property.

3. The right to trespass on another's land without his permission.

### ***Proprietorship of a Grant in Fee Simple Title***

This is the legal term for our ownership. We are proprietors of the Fee Simple Grant. Which means we operate the Title during the period of our ownership. Our proprietary rights are often called 'natural rights'.

We hold a *Proprietas plena* – full property, including not only the title, but the usufruct, or exclusive right to the use.

### ***Tenants in Common***

Our Grant in Fee Simple Title deed lists the new owner as a Tenant in Common.

This refers to the fact that we share an Interest in the land with the Crown through the reservation of the minerals. However the only right the Crown reserves is that listed on the Title Deeds. Also, in the event that we die without heirs, the Crown resumes sole ownership of the land (escheat).

The reference to Common is verification that our land ownership is a Common Law element, so removing Common Law or Old System Title would indicate that these are attempts to remove proof of our Common Law tenancy with the Crown in the form of Her Majesty Queen Elizabeth II, her Heirs and Successors – who are not Parliaments.

### ***Can Part of a Fee Simple Grant be Sold?***

No. The elements of ownership in a Grant in Fee Simple Title are attached to the land itself. We simply manage that ownership for a period of time. To sell land with one or more elements removed is to sell something completely different. And to then call the land title Fee Simple would be fraudulent.

For example, one owner may place natural elements of land under a covenant, removing these elements from ownership use, however at the moment a sale is completed the new owner has the return of all rights inherent in the Title.

These rights are not the owner's to remove or separate, they belong to the land. It has been said that we simply attach ourselves to the immense rights for the period of ownership.

### ***What is Freehold Title?***

Many people believe they own their land under a Freehold Title. They do not! However, Public servants and the documents they provide sometimes use the expression Freehold for land ownership because it does not carry the rights of the true title of Fee Simple.

A Freehold Title only gives the owner the right to buy, sell and inherit land – no other rights are included. Freehold is a part of the Fee Simple Title, the expression being 'mergeable therein.'

### ***What is Torrens Title?***

Remember back to the Register that the early colonial officials used to record the Lot numbers of land?

The issue of protecting land ownership was very real, and often mortgages etc were not found prior to a purchase, so the new owner had areas of jeopardy to concern him. Sir Robert Torrens developed the Land Registry to include every element of the land ownership, including mortgages, liens on properties, etc., in order to allow a legitimate list of all the interests attached to the deeds to be available to a potential owner.

Torrens Title is NOT a form of land ownership. It is a record

of land ownership only. You must have purchased your land under a Grant in Fee Simple Title, must have paid for your land in order to complete the sale, BEFORE the land title change can be lodged under the Torrens Title system. Torrens Title is only able to **record** dealings or the "chain of title" attached to the land.

More importantly, we can never own our land under a Torrens Title, because it does not and never will allow for the ability to inherit. A right which is guaranteed by the Queen, Her Heirs and Successors.

### ***Official Deception***

This, however, is where the State & Federal Parliaments are participating in removing our ownership.

On documents from the Australian Government, Department of Families, Housing, Community Services and Indigenous Affairs it is stated – "*The most common type of ownership is "Torrens Title"...As long as any repayments on mortgages are kept up to date and there are no government or council plans to resume the land, Torrens title ownership offers the most permanency. As a Torrens Title owners you are responsible for the cost of all rates, services, maintenance and improvements to the property. Subject to regulations, you can alter the building or property.*"

The document does not refer to a Grant in Fee Simple Title in any manner other than Common Law or Old System title.

On the Department of Lands website dictionary it states - *Title Conversion: The action taken within Land and Property Information, Department of Lands to convert parcels of Old System land to Torrens title. It includes actions under Part IVA Real Property Act 1900 and the more recent Conversion Actions (CAs).*

The statement from the Dept of Families is an outright lie. Torrens Title can never be how we own our land and to state it is, in an attempt to attach our land ownership to the rates and parliamentary acts which remove ownership rights, is criminal.

And to replace Common Law system titles (ie. Fee Simple) with Torrens Title is, in effect, the theft of our ownership rights by parliamentary legislation.

### ***The Abolition of Tenures Act 1660***

*"Alienation of land – Charles II A.D. 1600*

*IV. And be it further enacted by the authority aforesaid, that all tenures hereafter to be created by the King's Majesty, his Heirs and Successors, upon any gifts or grants of any manors, land, tenements or hereditaments, of any estate of inheritance at the common law, shall be in free and common socage only, and not by knights service or in capite, and shall be discharged of all wardship, value and forfeiture of marriage, livery, primer siesin, ouster-le-main, aide pur fair fitz Chivalier and pur file marrier; and law, stature, or reservation to the contrary thereof in any wise notwithstanding."*

Free and common socage only – tells us we do not have any debts attached to our land once we purchase it. Regardless of any law, statute or reservation to the contrary.

### ***IMPERIAL ACTS APPLICATION ACT 1969***

#### ***Sect. 36 Alienation of fee simple***

*Land held of the Crown in fee simple may be assured in fee simple without licence and without fine and the person taking under the assurance shall hold the land of the Crown in the*

same manner as the land was held before the assurance took effect.

12 Charles II c 24-The Tenures Abolition Act 1660 -s 4. 37 Tenure

All tenures created by the Crown by way of the alienation of an estate in fee simple in land after the commencement of this Act shall be taken to be in free and common socage without any incident of tenure for the benefit of the Crown.

This Act is Australian law and duplicates the Abolition of Tenures Act 1660 in stating that we buy (take) and are assured (guaranteed) our land free of any debts.

*Alienation* means to legally transfer title to a property in real property law.

*With no incidence of tenure* means the Crown has no holding or occupying right over the land.

### **CROWN LANDS ACT 1989**

#### **Sect. 169 Title to land**

A person who has acquired land from the Crown by way of purchase or exchange (other than a person who has acquired land under a lease from the Crown by way of exchange) under this Act has an estate *fee simple* in the land.

### **REAL PROPERTY ACT 1900**

#### **Sect. 135A Definition of "owner"**

In this Part:

"owner", in relation to land, means any person entitled to an estate of freehold in possession in the land:

- (a) whether in *fee simple* or for life or otherwise, and
- (b) whether at law or in equity, and
- (c) whether absolutely or by way of mortgage.

### **Dictionary of Important Words**

**Legal Definition of Letters Patent** - an Instrument given from the government, and conveying a right, authority, or grant to an individual. Familiarly termed a 'patent'.

**Legal Definition of an Instrument** -A legal document in writing such as a deed, contract, will, bond or lease.

**Legal Definition of Grant** - An act evidenced by letters patent under the great seal, granting something from the king to a subject.

**Legal Definition of Fee Simple** - A freehold estate of inheritance, absolute and unqualified. It stands at the head of estates as the highest in dignity and the most ample in extent; since every other kind of estate is derivable thereout, and mergeable therein.

**Legal Definition of Reservation** - A clause in a deed or other instrument of conveyance by which the grantor creates and reserves to himself, some right, interest, or profit in the estate granted, which had no previous existence as such, but is first called into being by the instrument reserving it; such as rent, or an easement.

### **Please take a moment to understand the information on a Grant in Fee Simple Title.**

1. It is the true name of your land ownership.
2. Land purchased under a Grant in Fee Simple Title is NOT purchased from the Government of the day, but FROM the Majesty of the day, via a Letters Patent from the Crown.
3. The Deed is stamped by the Governor of the State on behalf of the Majesty, using the Great Seal.
4. A land purchase is an agreement solely between the Majesty/Heirs/Successors and the Purchaser, government have been given no powers from the Crown to interfere in that agreement.
5. Land held under a Grant in Fee Simple Title is purchased without any form of Crown holdings other than that which is listed on the Deed, such as the reservation of the minerals.
6. Land is purchased from the King/Queen free of any kind of ongoing debt.
7. The Land is legally transferred to the new owner with a Deed.
8. A Grant in Fee Simple is an Instrument of Common Law.
9. The facts of Fee Simple ownership are protected by the Real Property Act 1900, Crown Lands Act 1989, and the Imperial Acts Applications Act 1969, which takes its words directly from the Abolition of Tenures act 1660.
10. All elements of ownership are Trusts – a Deed in Trust with the Crown in the form of the current King/Queen – a Trust in Inheritance – a Trust in Equity.
11. It has tremendously powerful rights that cannot be removed.
12. No elements of a Grant in Fee Simple can be removed or separated.
13. Freehold title is not the correct name for our land ownership as it limits our rights.
14. Torrens Title is not the correct name for our land ownership as it is the recording of details of land ownership which can only be registered AFTER we have purchased the land.
15. So, for the government to claim any further rights, they must claim it in right of the Crown, yet the Crown sale on land is final absolute and complete, outside of the reservations.

#### **Would you hire this Attorney ???**

ATTORNEY: Were you present when your picture was taken?

WITNESS: Would you repeat the question?

#### **Would you hire this Attorney ???**

ATTORNEY: So the date of conception (of the baby) was August 8th?

WITNESS: Yes.

ATTORNEY: And what were you doing at that time?

WITNESS: Uh...

### ***For Your Thought Process***

#### **Normal structure of sale of land privately**

1. Owner of property contracts with real estate agent to put land on market.
2. Real estate agent finds buyer
3. Real estate agent hands details of sale over to lawyers to finalise between potential buyer and seller.
4. Buyer signs contract and pays money
5. Seller signs contract to finalise sale.
6. Lawyers get paid for deal
7. Real estate agent gets paid for the deal.
8. Seller gets paid for the land.

#### **Normal structure of sale of land from Crown to privately**

1. King/Queen-owner of property contracts/letters patent with government-real estate agent to put land on market.
2. Government-real estate agent finds buyer.
3. Government-real estate agent hands details of sale over to lawyers to finalise between potential buyer and seller
4. Buyer signs contract and pays money
5. Governor signs contract for king/Queen to finalise sale, the Great Seal being the signature, which he is authorized to use under the Letters Patent for the land sale.
6. Lawyers get paid for deal
7. Government-real estate agent gets paid for the deal.
8. King/Queen-Seller gives their share of the sale to the government-real estate agent too.

As the original Letters Patent to the Government-Real Estate Agent was only to give them permission to sell the land, the Government-Real Estate Agent must be given a new Letters Patent in order for them to claim further rights over & above our land purchase.

And that Letters Patent must have the new "rights" assumed over the sale of the land by government signed with the Great Seal / King or Queen's signature.

Otherwise, if the King/Queen – previous owner of the property, has not approved the details of the new assumed "rights" government are claiming, then there is absolutely no legitimacy and government-real estate agent are acting without of authority, therefore fraudulently.

If government believes that they have this permission then show us the Letters Patent signed with the Great Seal. However, the last Letters Patent ran out in 1919 and the British Chancellery has verified there has been none since then.

Have we as the Heirs and Successors in right of the Crown under the Australian Constitution, given Government permission to continue to intrude in the Contractual details of a Grant in Fee Simple?

"The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England may not enter; all his force dares not cross the threshold of the ruined tenement." Lord Denning in *Southam v Smout* (1964)

***"By the laws of England, every invasion of private property, be it ever so minute, is a trespass. No man can set his foot upon my ground without my licence, but he is liable to an action, though the damage be nothing...If he admits the fact, he is bound to shew by way of justification, that some positive law has empowered or excused him."***  
***Lord Camden in Entick v Carrington (1765)***

No outward doors of a man's house can in general be broken open to execute any civil process; though in criminal cases the public safety supersedes the private. *Isaiah (ch. I, v. 8)*

## **Trespass**

In order to protect our property and properly inform all who would enter of our rights, it is important (particularly today) to place No Entry signs on each entry gate to your property, and keep your gates closed.

**STOP**

**Notice**

**This property is owned under a Grant in Fee Simple Title**

**To all persons and entities entering this property without the permission of the land owners, admittance is by Invitation only**

**OR**

**Trespass applies.**

Rulings by the High Court of Australia –

- *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
- *New South Wales v Ibbett* [2006] HCA 57; (2006) 231 ALR 485; (2006) 81 ALJR 427 (12 December 2006)
- *Plenty vs. Dillon* [1991] HCA 5; (1991) 171 CLR 635 F.C. 91/004 (7 March 1991)
- *George v Rockett* [1990] HCA 26; (1990) 170 CLR 104 (20 June 1990)
- *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
- *Commonwealth v New South Wales* [1923] HCA 34; (1923) 33 CLR 1 (9 August 1923)

This sign must be addressed to both persons and entities as this covers both any individual and any public / corporate official. A person may enter through your gate and proceed to your front door, however any indication that entry is not permitted means the person is now under accusation of trespass.

*“The policy of the law is to protect the possession of property and the privacy and security of its occupier. A person who enters the property of another must justify that entry by showing that he or she either entered with the consent of the occupier or otherwise had lawful authority to enter the premises...”*

In *Robson v Hallett* [1967] 2 QB 939, Lord Parker CJ said (at 951):

*“the occupier of any dwelling-house gives implied licence to any member of the public coming on his lawful business to come through the gate, up the steps, and knock on the door of the house.” This implied licence extends to the driveway of a dwelling-house. However, the licence may be withdrawn by giving notice of its withdrawal. A person who enters or remains on property after the withdrawal of the licence is a trespasser.”*

A sign at your front entrance clearly indicates that you do not give permission unless by invitation therefore entry is prohibited. Information from QLD has indicated that the police will enter through an open gate regardless of the sign, but cannot open one. Therefore, keep your gates closed. Police have also indicated that they cannot deliver a summons past a proper Trespass sign unless a felony has been committed under the Crimes Act and a warrant issued.

*“The very limited nature of a constable’s right to enter private property for the purpose of arrest is by itself a compelling argument for holding that, without making major changes to the law, the common law cannot logically recognise the service of a summons as a ground for entering premises against the will of the occupier. It would be incongruous for the common law to permit entry for the purpose of arrest in a few cases only but to permit entry for the purpose of serving a summons in every case whatsoever.”*

Lord Edmund-Davis in *Morris v Beardmore* stated: *“If the courts of common law do not uphold the rights of individuals by granting effective remedies, they invite anarchy, for nothing breeds social disorder as quickly as the sense of injustice which is apt to be generated by the unlawful invasion of a person’s rights, particularly when the invader is a government official.”*

Every Australian Parliamentary Act now states that, under that Act, public officials may enter your property for the purposes of that Act.

I firmly believe that is not true, given the previous quotes. Here are notes from the 6 major Australian High Court Trespass cases we use to define our rights in this area.

And remember, Lord Coke’s quote *“Common Law doth control Acts of parliament and adjudges them when against Common Right to be void.”*

• **HALLIDAY v NEVILL [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)**

Police noticed an unregistered driver back out of his driveway. When approached he ran back onto his property, the police entered and arrested him. The police were found to have trespassed and the Police appeal was dismissed with costs, in the High Court.

BRENNAN J. *“This case is about privacy in the home, the garden and the yard. It is about the lawfulness of police entering on private premises without asking for permission. It is a contest between public authority and the security of private dwellings.”*

Notes from the case: *“While the question whether an*

*occupier of land has granted a licence to another to enter upon it is essentially a question of fact.....The most common instance of such an implied licence relates to the means of access, whether path, driveway or both, leading to the entrance of the ordinary suburban dwelling house. If the path or driveway leading to the entrance of such a dwelling is left unobstructed and with entrance gate unlocked and there is no notice or other indication that entry by visitors generally or particularly designated visitors is forbidden or unauthorized, the law will imply a licence in favour of any member of the public to go upon the path or driveway to the entrance of the dwelling for the purpose of lawful communication with, or delivery to, any person in the house. Such an implied or tacit licence can be precluded or at any time revoked by express or implied refusal or withdrawal of it.*

*“The principle applies alike to officers of government and to private persons. A police officer who enters or remains on private property without the leave and licence of the person in possession or entitled to possession commits a trespass and acts outside the course of his duty unless his entering or remaining on the premises is authorized or excused by law.”*

• **GEORGE v ROCKETT [1990] HCA 26; (1990) 170 CLR 104 (20 June 1990)**

Warrant was issued to the Police, to enter premises and investigate information in documents which were in a solicitor’s office. The solicitor appealed to the High Court, the warrant was found to be invalid, and he won the case with costs.

*“It is the duty of a justice before issuing....a warrant, to satisfy himself that there are grounds for suspecting and grounds for believing the respective matters mentioned in S711 of the Criminal code and that those grounds are reasonable.”*

*“What is required by the law is that the justice of the peace should stand between the police and the citizen, to give real attention to the question of whether the information proffered by the police does justify the intrusion they desire to make into the privacy of the citizen and the inviolate security of his personal and business affairs.”*

*“When a statute prescribes that there must be ‘reasonable grounds’ for a state of mind – including suspicion and belief – it requires the existence of facts which are sufficient to induce a state of mind in a reasonable person.”*

In *Feathers v Rogers*, Justice Simpson stated that the complaint must exist as a sworn oath, otherwise the statements made in the complaint are immaterial. A sworn oath would be in an affidavit form verified by oath or affirmation.

Suspicion without proof is not enough for a warrant to be issued.

• **PLENTY v DILLON [1991] HCA 5; (1991) 171 CLR 635 F.C. 91/004 (7 March 1991)**

Police entered a rural property to issue a summons. The owner told them to leave, a scuffle ensued, the owner was arrested for assault. His appeal to the High court won with costs for damages against the 2 constables.

*“Common law authority tends against (allowing for entry re delivery of a summons when entry) has been forbidden by the person in possession and entitled to possession thereof.”*

*“Next, it is submitted that the statutory power to serve a summons, either personally or non-personally, carries with it the right to make such entry on land as is necessary to effect service.....The grounds to justify to this fail. Police entry was wrongful.”*

*“Serving a summons is not an ‘execution under the process of any court of justice’; it is simply the commencement of the process.”*

*“It would be incongruous for the common law to permit entry for*

*the purpose of arrest in a few cases only but to permit entry for the purpose of serving a summons in every case whatsoever."*

- **NSW v IBBETT [2006] HCA 57; (2006) 231 ALR 485; (2006) 81 ALJR 427 (12 December 2006)**

Police entered the home of a lady chasing her son. Weapons and threats were used by the police. Mrs Ibbett was awarded exemplary damages against the police involved. The Police appealed and lost with costs.

*"It is well established that the tort protects the interest of the plaintiff in maintaining the right to exclusive possession of her place of residence, free from uninvited physical intrusion by strangers."*

*"The common law fixes by various means a line between the interests of the individual in personal freedom of action and the interests of the State in the maintenance of a legally ordered society. An action for trespass to land and an award of exemplary damages has long been a method by which, at the instance of the citizen, the State is called to account by the common law for the misconduct of those acting under or with the authority of the Executive Government."*

Lord Devlin in *Huckle v Money* stated: *"the servants of the government are also the servants of the people and the use of their power must always be subordinate to their duty of service."*

- **KURU v STATE OF NSW [2008] HCA 26 (12 June 2008)**

The police were called to a domestic dispute. The woman had gone to her family and after police checked by phone on her safety, the man asked them to leave several times. An altercation ensued, the man was arrested. He appealed the arrest and his appeal was upheld with costs against the police.

After the man had asked the police to leave...*"there was neither statutory nor common law justification for the police remaining on the appellant's premises."*

*S 357F Crimes Act 1900 (NSW)(3) Except as provided in subsection (4), a member of the police force may not enter or remain in a dwelling-house by reason only of an invitation given as referred to in subsection (2) if authority to so enter or remain is expressly refused by an occupier of the dwelling-house and the member of the police force is not so otherwise authorized (whether under this or any other Act or at common law) to so enter or remain.*

The case hinged on 3 facts:

1. *an occupier of the dwelling-house had invited the police to "look around" the flat*
2. *an occupier of the dwelling-house had then asked the police to leave*
3. *the police officer did not leave and remained on the premises for longer than it would reasonably have taken them to leave.*

*"Regs 8 and 9 of the Police Regulations 2000 (NSW), coupled with ss6 and 201 of the Police Act, prescribes a form of oath or affirmation to be taken by a police officer under s13 of the Police Act. The prescribed form of oath or affirmation contained a promise to 'cause Her Majesty' peace to be kept and preserved.....s201 of the Police Act made it an offence to neglect or refuse to carry out any lawful duty as a police officer."*

- **COMMONWEALTH v NSW [1923] HCA 34; (1923) 33 CLR 1 (9 August 1923)**

This case was not about trespass but verifies many of the ownership rights on Fee Simple land.

Remember previously I gave details of the 4 elements of

ownership that are carried in a Fee Simple Title Deed.

1. *tenements*
2. *messuages*
3. *corporeal hereditaments*
4. *incorporeal hereditaments*

First we must remember that many words have different legal words or had different original meanings to our current understanding.

Therefore, the word *Tenement* in 1. does not mean a hovel, shacks, etc. In a narrow sense it simply means buildings, however, in the broader sense as attached to a Fee Simple Grant, it means not only the land, but everything of a permanent & solid nature attached to the land, so the buildings, the rents, the leases, etc.

In 2. *Messuages* is a term for dwelling house. In essence this ownership right is permission to build and live on the land.

At 3. & 4. we come to the Hereditaments. These are things capable of being inherited, including not only the land, but everything thereon.

*Corporeal Hereditaments* are the tangible/physical elements of that inheritance. According to Blackstone's Commentaries on English Law 1765 (still used in the High Court of Australia today): *"This consists of substantial and permanent elements of the land – the ground, soil, or earth whatsoever; as arable, meadows, pastures, woods, moors, waters, marshes, furzes, and heath. It legally includes buildings, as they use the land as their foundation. Water cannot be owned, but the land which holds it can. In its legal significance, land has an indefinite extent both upwards and downwards to the centre of the earth."*

*Incorporeal Hereditaments* are the intangible elements of that inheritance. This is a right issuing from the physical element of land, such as rent, incomes from an enterprise on the land. They are a right to have an idea that will become physical on the land, ie to develop a business and produce an income. An incorporeal hereditament is the things we do with our land including waste it.

Now in the case we are discussing, the dispute was between the State of NSW and the Federal Government over mining land, which the Federal Government were resuming. The State wanted full compensation.

As the dispute was about mining, many comments were made about the minerals under the surface of the ground. All of the following quotes from this case cover the facts stated in *Corporeal Hereditaments*, that we own all the natural elements of our land from the top of the sky to the centre of the earth.

*"....."land the property of a State" covers the whole soil from the surface to the centre and everything which is physically incorporated in it including the Royal metals."*

*"The power given by s13 Land Acquisition Act is to acquire 'land', and prima facie that means to acquire the soil from the surface to the centre."*

*"...by its definition of the word 'land', enables the Commonwealth to acquire interests in, or rights, powers or privileges over, land as well as land in its ordinary meaning, namely, 'that in respect of which you have a right from the centre of the earth to the heaven above."*

*"As a natural fact, gold and silver, neither more nor less than copper or tin or platinum or clay or oil, are part of the concrete physical mass, commencing at the surface of the earth and extending downwards to the centre of the earth, which is called 'land.'"*

“...trees growing on the land are, according to the received legal definition of ‘land’, regarded as part of it...,” unless reserved to the Crown.

When resuming land....”*the full contents of the parcel of land pass; the ‘land’ being measured superficially by metres and bounds and extending actually downward indefinitely and notionally upward indefinitely, is that which is ‘passing to the Commonwealth’* “ when the resumption occurs.

Many properties are now faced with Mining companies assessing the land for the minerals under the soil. Once miners had to pay full royalties for whatever they found in your land. Since the 1950’s approx, the government restricted that to the top 6 inches.

Did the government have a Letters Patent to re-enter our land in this manner and reduce our income from our land? In effect, they removed part of our Incorporeal Hereditaments – a right sold to us by the King/Queen who reserved the mineral rights, it is true, but not any royalty income via a depth in the soil. And this has led most people to believe they only purchase the top 6 inches of the soil. Not true. Absolutely not true. And clearly verified by this High Court case, which is still current in Australian law, being a CLR case – law precedent case.

### **1923 confirms the rights in our Fee Simple title.**

When we purchase the land, the Crown guarantees that we buy that land free and clear Remember that the *Abolition of Tenures Act 1660* & the *Imperial Acts Application Act 1969 - SECT 36* both confirmed that we take on no debt through the purchase of the land. This case now tells us how the Commonwealth Government do resume the land free and clear also.

“...the lands have vested in the Commonwealth for an absolute and unconditionable estate in fee simple freed and discharged from all reservations, rights, royalties, conditions and obligations of any kind whatsoever to the State of NSW.”

“...and be freed and discharged from all trusts, obligations; estates, interests, contracts, licences, charges, rates, and easements, to the intent that the legal estate therein, together with all rights and powers incident to....”

“The word ‘land’ is, and has been....defined by S5 of the *Lands Acquisition Act* as including ‘any estate or interest’ in land – legal or equitable – and any easement, right, power, or privilege over, in, or in connection with land...”

“No implied limitation can be placed on the fullest meaning that can be given to the word ‘property’ in s51(xxxi) and s85 of the *Australian Constitution*.”

“s22 *Acts Interpretation Act 1901*...so as to include ‘messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein’ and ‘estate’ to include ‘any estate or interest, charge, right, title, claim, demand, lien or incumbrance at law or in equity’....”

“...sec 16(1) of the Act applies: so that the land described in the notifications became vested in the Commonwealth ‘freed and discharged from all trusts, obligations, estates, interestes, contracts, licences, charges, rates and easements, to the intent that the legal estate therein, together with all rights and powers incident thereto or conferred by this Act, shall be vested in the Commonwealth.’”

“...S17 (of the Act)includes not only the corporeal land but every interest therein, and any easement, right, power or privilege over, in or in connection with that land.”

“From *Challis’s Real Property*, 3<sup>rd</sup> ed., p218, it is stated with

*perfect accuracy* (remember these are the words of a High Court Justice); ‘In the language of the English law, the word *fee* signifies an estate of inheritance as distinguished from a less estate; ...A fee simple is the most extensive in quantum, and the most absolute in respect to the rights which it confers, of all estates known to the law. **It confers, and since the beginning of legal history it always has conferred, the lawful right to exercise over, upon, and in respect to, the land, every act of ownership which can enter into the imagination, including the right to commit unlimited waste; and for all practical purposes of ownership, it differs from the absolute dominion of a chattel, in nothing except the physical indestructibility of its subject. Besides these rights of ownership, a fee simple at the present day confers absolute right, both of alienation by inter vivos and of devise by will.**”

### **1923 clarifies where a Torrens Title registration affects our ownership.**

“*Real Property Act 1900* provides by s13, as follows: (1) All waste lands.....when alienated in fee, be subject to the provisions of this Act. (2) the grants of such land shall be in duplicate, and every such grant, in addition to proper words of description, shall contain a diagram of the land thereby granted on such scale as the Governor directs, and shall be delivered to the Registrar-General, who shall register the same in manner hereinafter directed.”

“It will be observed that it is only when land in this class is ‘alienated in fee’ by the Crown that it becomes subject to the provisions of the Act.....Unless there has been an alienation by Crown grant of an estate in fee simple, the Registrar-General is no authorized by the *real Property Act* to take any step in the direction of registration or bringing the land under the Act, or issuing a certificate of title thereto. Unless.....there is nothing which the Act authorizes the Registrar-General to enter in the register-book and against which he can record any instrument, dealing, or matter affecting such land.”

“His action is a State service, not an individual service.”

### **1923 clarifies Compensation is a Commonwealth issue.**

“s27 *Land Acquisition Act 1906*, it is provided that where any Crown land is acquired by compulsory process the State shall be entitled to compensation, to be estimated as if the State were the proprietor of an estate in fee Simple.”

“Clearly, since the *Lands Acquisition Act 1906* was passed under the power granted in s51(xxxi) of the *Constitution*, any ‘property’ specified in the statute may be taken provided “just terms” are available by law. Clearly also the same results must follow in the case of land taken compulsorily under the statute as in the case of the *Constitution*. The *Constitution suo vigore* passes instanter on the transfer of the ‘Departments’ the property used in connection therewith; the statute, under constitutional authority, passes, when its conditions are satisfied, the property taken for the ‘purposes’ indicated. The result, however, must in each case be the same, because in each case the *Constitution* is the ultimate basis of title.” “here we deal with....a *Constitution* distributing property and powers between different organs of the King’s government.”

“Where any land (other than Crown land) is acquired by compulsory process, the owner of the land shall, if deprived of the land in whole or in part, be entitled to compensation under this Act (*Land Acquisition Act 1906*).”

“17 sub-section2 says: the compensation shall be estimated as if the State were the proprietor of an estate in fee simple in the land, subject to any estate or interest which any person had in

the land at the time of its acquisition by the Commonwealth.”

‘s5, Interpretations, Lands Acquisition Act 1906, the word ‘owner’ includes, with respect to the land, ‘any person who under this Act is enabled to sell or convey the land to the Commonwealth’; and ‘land’ includes any estate or interest in land (legal or equitable) and any easement, right, power or privilege over, in or in connection with land. The owners of such outside interest appear to be entitled to all costs, charges and expenses of all conveyances and assurances of the interests (s61 (1)(a)); and this right would be anomalous if such owners were not also entitled to compensation.”

### Dictionary of Important Words

**Legal definition of Implied** – where circumstances and not words appear to create an intention.

**Legal definition of Tort** – A legal wrong committed upon a person or property, ie trespass, theft, etc

**Legal definition of Statutory** – A legislative act, enacted and established by the will of the government of the day.

**Legal definition of Common Law** – Not modern civil law – comes from Anglo-Saxon times – relates to government, security of person and property, deriving from ancient usages and customs – fixed and immutable rules and principles. The background to Common Law is biblical

principles.

**Legal definition of Interest** – General term denoting property in land or chattels. Particularly any right in the nature of property, but less than the title; a partial or undivided right; a title to share.

**Legal definition of Alienation** – Transfer of property and possessions of lands, tenements, or other things from one person to another. Absolute conveyance of real property.

**Legal definition of Inter vivos** – Latin: refers to property transfers between living persons, as opposed to inheritance

**Legal definition of Devise by will** – A gift of real property by will, by inheritance.

**Legal definition of Suo vigore** – Latin: energy, vigour

**Legal definition of Instante** – presently to, upon

**Definition of reservations, royalties, conditions, obligations, trusts, contracts, licences, charges, rates, title, claim, demand, lien or incumbrance at law or in equity**, to the intent that the legal estate therein, together with all rights and powers, every interest therein, and any easement, power or privilege over, in or in connection with that land – all the words used to convey those elements that the Grant in Fee Simple title is free from on alienation. This is how we purchase our land from the King/Queen, this is how the Commonwealth resume land from private ownership and the States’ control.

### Please take a moment to understand the information on a Trespass

1. We allow entry to our land normally through implied permission, in which a person can come to our door.
2. The moment we ask them to leave, they must or be under penalty of trespass.
3. This particularly includes all public officials, including police.
4. When the property is sign-posted refusing entry, none may enter. However, an open gate can be considered an invitation by some persons.
5. Police may only enter past a sign-posted entrance with a warrant under the Crimes Act only.
6. At the time of legal entry of police, a copy of the complaint and the warrant must be provided to the owner of the land.
7. A summons does not carry permission to enter past a sign-posted entrance.
8. Trespass can apply both horizontally and vertically – to the centre of the earth, to the top of the sky.
9. We purchase our land free and clear of all debts etc as defined in the Dictionary and verified in the High Court case quotes.
10. Therefore to have any of these debts, etc attached to our land after the sale and without our permission is essentially trespass on our rights.
11. Another way of understanding this form of ‘trespass’ is that the government are claiming an Interest in our land, which can only happen with our agreement. This Interest removes our Trust in Equity & our Trust in Inheritance.
12. If government wish to continue with that Interest, they must provide Just Terms Compensation as this Interest removes aspects of our ownership.
13. An Interest can be implied via a government Act, however it is not until its application becomes enforceable over the land ownership that the actual taking of rights occurs.
14. Any Act which gives permission to an entity of the government to enter is done without the permission of the owner of the Grant in Fee Simple title. In law, without the owner’s permission, there can be no entry.
15. Please remember that government were only ever given permission to act as ‘real estate agents’ in the sale between the king/queen our ourselves. They were never given permission to continue to intrude, trespass, govern **over** the further elements of that sale and our subsequent proprietorship on that land.
16. They were given permission to manage and maintain the lands of the Crown that were not sold into private land ownership.
17. A Grant in Fee Simple title is a Common Law Instrument of Title. When registering our land under Torrens Title, we are placing it into a Civil law structure.
18. Because Common Law protects our Equity and Inheritance, it must always be the superior law.



## Permission

If we have superior rights over our land, that cannot be removed without either trespass and/or compensation applying, how then do governments both claim and enforce their right over ours.

It can only be with our permission. Yet every government acts tells us that the relevant entity/public official already has permission!

### LOCAL GOVERNMENT ACT 1993

#### 191 Power of entry

(1) For the purpose of enabling a council to exercise its functions, a council employee (or other person) authorised by a council may enter any premises.

(2) Entry may only be made at any reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the premises.

#### 194 Use of force

(1) Reasonable force may be used for the purpose of gaining entry to any premises (other than residential premises) under a power conferred by this Part, but only if authorised by the council in accordance with this section.

(2) The authority of the council:

- (a) must be in writing, and
- (b) must be given in respect of the particular entry concerned, and
- (c) must specify the circumstances which are required to exist before force may be used.

#### 200 In what circumstances can entry be made to a residence?

The powers of entry and inspection conferred by this Part are not exercisable in relation to that part of any premises being used for residential purposes except:

- (a) with the permission of the occupier of that part of the premises, or
- (b) if entry is necessary for the purpose of inspecting work being carried out under an approval, or
- (c) under the authority conferred by a search warrant.

#### 199 Authority to enter premises

(1) A power conferred by this Part to enter premises, or to make an inspection or take other action on premises, may not be exercised unless the person proposing to exercise the power is in possession of an authority and produces the authority if required to do so by the owner or occupier of the premises.

(2) The authority must be a written authority which is issued by the council and which:

- (a) states that it is issued under this Act, and
- (b) gives the name of the person to whom it is issued, and
- (c) describes the nature of the powers conferred and the source of the powers, and
- (d) states the date (if any) on which it expires, and
- (e) describes the kind of premises to which the power extends, and
- (f) bears the signature of the general manager.

(3) This section does not apply to a power conferred by a search warrant.

Council, using an undefined authority - not a search warrant, claim right of entry to your premises, but not your home without your permission. They claim they may use force if necessary.

### MINING ACT 1992

#### 164 Rights of way – part of section only

(1) The holder of an authority is entitled to a right of way (to be indicated or described in the manner prescribed by the regulations) between the land subject to the authority and a public road.

(6) A right of way is subject to such conditions as to its exercise, and to such exceptions as to the land over which it may be exercised, as may be prescribed by the regulations or as may be imposed by a warden pursuant to an inquiry under subsection (7).

(7) A warden may hold an inquiry into any matter arising under, or in connection with, a right of way conferred by this section.

(8) Such an inquiry may be held on the warden's own motion or on the application of any landholder affected by, or the holder of any authority entitled to, the right of way.

#### 166 Use of water, timber and pasturage etc

(1) If land subject to an authority includes the surface of the land, the holder of the authority must not:

- (a) use water artificially conserved on that land, or
- (b) fell trees, strip bark or cut timber on that land, otherwise than in accordance with the consent of any landholder of the surface of the land or, if such a landholder refuses consent or attaches unreasonable conditions to the consent, with the approval of a warden.

(2) If land subject to a mining lease includes the surface of the land, the holder of the lease must not:

- (a) depasture horses on the land, or keep on the land any dog that is not kept under effective control, unless the land is securely fenced, or
- (b) remove rock or earth from the land, except in connection with mining operations, otherwise than with the consent of the landholder of the surface of the land.

#### 383B Consent of landholders and others – part of section only

(1) This section applies in relation to:

- (a) the requirements of sections 31, 49, 62 and 188 that certain rights cannot be exercised or leases or mineral claims cannot be granted except with the written consent of a person or persons specified in the relevant section, and
- (b) the provision in section 81 that certain operations may be carried out with the consent of the landholder, and
- (c) the requirement of section 140 that certain operations may not be carried out otherwise than in accordance with an access arrangement agreed with each landholder or determined by an arbitrator as referred to in section 140 (b), and

(h) the requirement of section 265 (4) that rights cannot be exercised unless the amount of compensation payable to a landholder in respect of a mining area is the subject of a valid agreement or of an assessment.

#### 211 Rights of way – parts of section only

(1) The holder of a mineral claim is entitled to a right of way (to be indicated or described in the manner prescribed by the regulations) between the claim area and a public road.

(6) A right of way is subject to such conditions as to its exercise, and to such exceptions as to the land over which it may be exercised:

(c) as may be imposed by a warden pursuant to an inquiry under subsection (7).

(7) A warden may hold an inquiry into any matter arising

under, or in connection with, a right of way conferred by this section.

(8) Such an inquiry may be held on the warden's own motion or on the application of any landholder affected by, or the holder of any mineral claim entitled to, the right of way.

(9) In the case of land within a mineral claims district, the conditions imposed by a warden pursuant to an inquiry under subsection (7) must not be inconsistent with the conditions specified in any registered access management plan applying to the land.

Mining companies negotiate for entry, however, they claim the right to allow the Warden's Court to make final decisions over privately owned land and mining rights.

#### **COMPANION ANIMALS ACT 1995**

##### **69A Powers of authorised officers to enter property**

(1) An authorised officer may, at any reasonable time, enter any property for any of the following purposes:

(a) to seize or secure any companion animal that the officer is authorised to seize or secure under this Act,

(b) to determine whether there has been compliance with, or a contravention of, this Act or the regulations.

(2) Before entering any property under this section, an authorised officer must give the occupier of the property reasonable notice of the intention to enter the property unless:

(a) entry is made with the consent of the occupier of the property, or

(b) entry is, in the opinion of the authorised officer, required urgently because of the existence or reasonable likelihood of a serious risk to the health or safety of any person or animal, or

(c) entry is made for the purposes of seizing or securing a dog under section 18, or

(d) the giving of the notice would, in the opinion of the authorised officer, defeat the purpose for which it is intended to enter the property.

(3) The powers of entry conferred by this section are not exercisable in relation to any part of premises used only for residential purposes except:

(a) with the permission of the occupier of the premises, or

(b) under the authority conferred by a search warrant under section 69D.

##### **69B Powers of authorised officers to do things on**

##### **entered property**

(1) An authorised officer may, on any property lawfully entered under section 69A, do anything that in the opinion of the authorised officer is necessary to be done for the purposes referred to in that section, including (but not limited to) the things specified in subsection (2).

(2) An authorised officer may do any of the following:

(a) make such examinations, inquiries and tests as the authorised officer considers necessary (including the scanning of a companion animal to ascertain its identification information),

(b) take such photographs, films, audio, video and other recordings as the authorised officer considers necessary,

(c) require records (including certificates of registration in relation to a companion animal) to be produced for inspection,

(d) examine, inspect and copy any records,

(e) seize anything that the authorised officer has reasonable grounds for believing is connected with an offence under this Act or the regulations,

(f) do anything else the authorised officer is empowered to do under this Act.

(3) The power to seize anything connected with an offence includes a power to seize:

(a) a thing with respect to which the offence has been committed, and

(b) a thing that will afford evidence of the commission of the offence, and

(c) a thing that was used for the purpose of committing the offence.

A reference to any such offence includes a reference to an offence that there are reasonable grounds for believing has been committed.

##### **69C Use of assistants and reasonable force**

The functions of an authorised officer under sections 69A and 69B may be exercised with the aid of assistants and with the use of reasonable force.

This Act claims extraordinary powers of both entry and seizure of assets. No authority or warrant appears to be required, all is at the decision of the entity/public officer.

There are a great many more government acts that carry similar statements. While they mention requesting permission, they also state they can enforce their rights without that permission.

None of which is supported by the High Court cases.

If nothing in these cases supports a right of entry by government, the question still stands – how do they assume they have entry?

## **Questions?**

- 1. Are any of these stated government entity rights of entry supported by the 6 High Court cases listed and detailed in the section on Trespass ?**
- 2. How do government appear to separate premises from residence? Premises legally meaning lands and tenements; Residence legally meaning the place where a man makes his home.**
- 3. Does our Grant in Fee Simple allow for a separation of these elements of our ownership for the purpose of allowing entry?**
- 4. Does our Grant in Fee Simple Title cover the entire land from boundary to boundary, vertically and horizontally?**
- 5. How then do they legally enter?**
- 6. How do we give permission without knowingly & willingly 'giving permission'?**

First let us look at the structure of government.

**The Australian Constitution 9<sup>th</sup> July 1900 opens with the following words - WHEREAS the people of New South Wales, Victoria, South Australia, Queensland; and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established.**

The people agreed to unite in one indissoluble Federal commonwealth under the Crown....the people are the Commonwealth....the people agreed to unite.....the Commonwealth is indissoluble (able to be dissolved)....with our agreement we formed the Commonwealth....so it would take our agreement to dissolve it.

Although Queen Victoria did not sign the Australian Constitution into existence due to illness she was present in the room when it was signed and clearly agreed to it.

In doing so, she surrendered her Heirs & Successors rights into the hands of the people 'under Australasia'. She gave the people of Australia the Sovereignty, and to the Parliament she gave the task of maintaining the rights and assets **of the people of the Commonwealth.**

The Commonwealth of Australia is registered with the US Securities & Exchange Commission (0000805157) – business address 1601 Massachusetts Avenue, NW, c/o Australian Embassy, Washington, DC, 20036

All the departments and public entities of the Commonwealth of Australia are now controlled through non-accountable Corporations, each carrying their own ABN number.

These corporations now administer the legislative acts produced by both State and Federal Government.

What commonwealth is registered? Certainly not the one **that is the people.**

Did the people of the Commonwealth give an agreement via referendum for this Corporative commonwealth structure?

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**Legal definition of a law** under our Constitution is an act that has been assessed as being consistent with the Constitution, therefore is approved and sealed by the Governor-General, or the Governor of the State.

**Legal definition of an Act** – essentially a civil law format of rules prepared and administrated by the State and Federal governments. An act has not yet been ratified as consistent with the Constitution. (In Switzerland, no Act is made a Law without the referendum consent of the entire population.)

Law derived from judicial precedents is called "Common Law".

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Clearly, all the listed Acts and including the many others made by a Corporate government which have not been prepared with reference to the Australian Constitution, carry no respect for Common Law, as they are acting to completely remove Common Law rights of land ownership.

How can the Commonwealth of the people operate under a corporation if the corp itself is a child of the Constitution?

How can the people of the Commonwealth be forced to obey laws that are not Common Law without referendum?

**For the possible answer, it is worth looking into a form of Bush Law called Honour/Dishonour, Commercial Redemption OR Spiritual Law.**

**The Creator  
The Created, being living men and women  
The Made – being entities such as corporations, banks, parliaments, etc.**

**They (corporations) cannot commit treason, nor be outlawed, nor excommunicated, for they have no souls.** (vol. V, Case of Sutton's Hospital)

The basic principle is simple –

- Our Constitutional basis for money is gold and silver.
- Therefore the amount of gold and silver in the banks defined the amount of money available in the community.
- During the war there was not enough, the gold standard was lifted and credit entered.
- After the war all governments were faced with the task of paying off the debt at the same time as having to borrow to rebuild the country.
- Banks agreed to continue loaning, the debt was never to be repaid, as long as interest payments were met.
- Government could not create that contract without assets, therefore the people were used as the asset, their labour creating taxes which then paid the interest on the debt.
- In order to adhere the people to this contract (without their consent) a form of agreement was created via registration.
- Birth Certificate registered our children under the corporation. The certificate is on bond paper and carries a number which allows government to borrow \$1 million per child.
- The birth certificate is used to enroll the child in areas such as education, banking, etc until the child is of adult age.
- At adult age, the child must make their own agreement, which is via electoral registration, vehicle registration, etc.
- The Marriage Certificate is listed in 3 US State Marriage Acts as allowing the State to become the third AND primary party to the marriage.
- Medical careers require registration for insurance purposes.
- Mortgages also require insurance registration.
- Tradesmen are required to gain Gold Card registration to establish their credentials. Home Builders must register.
- Teachers are required to complete either a degree or a course of training that is used in TAFE's and other government institutions.
- In order to work in government places, certain person such as nurses & teachers are forced to be innoculated in order to keep their jobs.
- Our bank accounts require verification from birth certificates, passports, licences, etc in order to be approved.
- Etc, Etc

How then does this relate to giving government permission?

In almost every case permission is in the registration and with land it appears to be the Torrens Title registration.

**Let's look at Local Council because it has a growing number of Interests over our land.**

When we purchase our land under a Grant in Fee Simple title, the lawyer prepares the Torrens Title registration process at the same time. We do not notify our local council of the change of ownership, however they are obviously informed because you promptly receive a Rating Notice.

**In section 723 of the Local Government Act 1993 - Land is conveyed free of certain interests**

(1) A conveyance or transfer under this Division vests the land in the purchaser for an estate in fee simple freed and discharged from all trusts, obligations, estates, interests, contracts and charges, and rates and charges under this Act or any other Act, but subject to:

- (a) any reservations or conditions for the benefit of the Crown affecting the land, and
- (b) any easements, restrictive covenants, positive public covenants created in accordance with section 88D or 88E of the *Conveyancing Act 1919* and public rights of way affecting the land.

**In section 546 the following info is found - How is a rate or charge levied?**

- (1) A rate or charge is levied on the land specified in a rates and charges notice by the service of the notice.
- (2) The notice may be served at any time after 1 July in the year for which the rate or charge is made or in a subsequent year.
- (3) A notice that is required to effect an adjustment of rates or charges may be served in the year for which the rate or charge is made or a subsequent year.
- (4) The notice may include more than one rate, more than one charge and more than one parcel of land.
- (5) It is not necessary to specify the name of the rateable person or the person liable to pay the charge in the notice if the council does not know the person's name.

**Then we find at section 713 - Sale of land for unpaid rates and charges - part of section only**

- (1) For the purposes of this Division, a rate or charge is overdue if:
  - (a) in the case of vacant land, it has remained unpaid for more than one year, or
  - (b) in the case of any other land, it has remained unpaid for more than 5 years,from the date on which it became payable.
- (2) A council may, in accordance with this Division:
  - (a) sell any land (including vacant land) on which any rate or charge has remained unpaid for more than 5 years from the date on which it became payable, and
  - (b) sell any vacant land on which any rate or charge has remained unpaid for more than one year but not more than 5 years from the date on which it became payable, but only if:  
So from section 723 which accepts our sale rights, suddenly by section 546 & 713 Council have permission to both levy rates and resume land for unpaid rates.

How?

Well, let's look at the Rating Notice itself. The first clue is that it is a Notice. I recently spoke to a young fellow from Lawlink to do with a legal account.

Our conversation went like this –

Him – “Was it a bill?”

Me – I do not believe so, I think it was a Statement.

Him – You should only pay on a bill.

**Legal Definition of Bill** - The creditor's written statement of his claim, specifying the items.

**Legal Definition of Notice** – Information of an act to be done or required to be done.

**Legal Definition of Statement** – An allegation; a declaration of matters of fact.

At no stage do we receive a Bill from Council. Instead we receive a Notice that tells us we are required to pay.

Is this voluntary or is it forced?

Clearly, as is shown under s713, it is forced, and under Australian law all Contracts carry the following requirements

1. Offer and Acceptance
2. **Consideration** (generally, the supply of money, property or services)
3. **Formalities** are performed (for instance, most contracts involving real estate must be in writing.
4. That the parties **intend to enter in to legal relations**
5. **Certainty** in what the contract requires to be done, or restricts from being done; and,
6. That the parties have **Capacity** to enter in to a contract (i.e. mental capacity, or in the case of corporations, that they are authorised to do so.)

It is illegal under Australian law to force anyone into a Contractual arrangement against their agreement or without all the facts of the contract being disclosed.

Are all the facts of a rating notice disclosed? Not if we have to be forced by duress into it. So, again how do we agree?

Very simply. The Rating Notice is a Unilateral Contract. You are under no obligation to agree to the contract. You simply pay the listed amount by the due date and the contract becomes legal and enforceable. As this Contract is based on land, it must be dealt with in a Common Law court.

Now council also expect us to apply and pay for such things as Development Applications on our land. It is stated that this is in order to harmonise the residential, business, industrial development in an area, to ensure buildings are sound and safe for the public, to assist in road creation, etc.

In plain fact, it is about revenue. Under Common law, a land owner must not cause disturbance and distress to his neighbour's ownership, and this can be mediated in a common law court. No council insures a building project, the home owner must carry his own insurance in order to protect the general public. Road creation is a cost that properly should be carried by the road taxes and the federal taxes.

And more importantly, it is not only an illegal imposition over the rights inherent in a Grant in Fee Simple title, but it is also a contractual arrangement that allows council permission to enter our property and examine other facets of our ownership.

Then we look at Zoning. As zoning is not legitimately attached to our Deed, it cannot be enforced over the Fee Simple title. (more to come)

Now with regard to the Mining Act, it also uses a form of coercion to bring about our agreement to entry, by stating that if we do disagree in any area, the matter can be taken to the Warden's Court.

What you are not told is that the Warden's court is created under the Mining Act, and is therefore an entity of the government. As it is the government acting for the Crown that authorises the mineral leases over our land, this could not be an unbiased court.

Nor is it is Common Law court, and remember, our Grant in Fee Simple title is a Common Law Instrument, which reserves only the mineral rights and no other right on our land, especially not trespass.

## Our Deed

The foundation of all land ownership is founded in the Hebrew/Christian faith that says "The Earth is The Lord's and the fullness thereof, the world and they that dwell therein." In other words; everything that exists belongs to God; we are all His property; so is the land, and we are occupiers of the land under a "Deed of Grant, in trust.

**Legal definition of Deed** – A sealed Instrument, containing a contract or covenant, delivered by the party to be bound thereby, and accepted by the party to whom the contract or covenant runs.

Now it is worth considering the fact that a Deed also evokes a Covenant, because a covenant is a very important word.

I previously mentioned that the basis of Common Law was biblical. Let's look at the Coronation Ceremony of Queen Elizabeth II.

1. Elizabeth, daughter of King George VI, next in a line of succession to a Throne going back almost 1,000 years, ascended to it the same manner as Her predecessors
2. She publicly acknowledged Her own need for a saviour and accepted Jesus The Christ as that saviour.
3. She was handed a Christian Bible and accepted it as the standard by which She would Reign over Her people.
4. She was crowned with a Crown, the highest point of which is the Cross of Jesus Christ, as Head of all the countries then concerned.
5. Likewise, She accepted the symbols of the power of Her office; the sceptre and the orb. She is Commander-in Chief of all armed forces and police forces throughout those lands and members of those forces swear allegiance to Her.
6. She acknowledged that Jesus Christ had promised that He will return and stated that She would hand Him those symbols of power and then bow before Him.
7. This is why She and He predecessors are all known as "Regina" or "Regent;" because they stand in the place of another.
8. By right, we tell our "representatives" in Her Parliaments what laws we want passed and how we want to be governed, from day-to-day. Her representatives tell Her what we have collectively asked; She consults Her history (She has records of all the world's governments going back into that history), Her "Privy Council" and Her Bible and if these all agree to our request She issues Her Royal Assent and it **then** becomes Law.
9. She can make no law.
10. She must remain above and out of politics.
11. No law has authority until She gives Her assent.
12. It is not the power She has that counts; it's the power that She denies others that they are concerned about and want to remove.

Queen Elizabeth has publicly declared that the Bible is the greatest book on earth. That 'book' must be used to make a sworn oath, it must be found in every court in this land, politicians are required under the Australian Constitution to swear their oath to the people of the commonwealth on that 'book'.

### The Oath of the Constitution is

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

### The Affirmation of the Constitution is

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen

Victoria, Her heirs and successors according to law.

We are **not** a democracy; we are a constitutional Christian Monarchy and it is not possible to be both. Only a republic can be a democracy.

**Legal Definition of Covenant** – In the Law of Contracts an agreement, convention or promise of two or more parties, by deed, in writing, signed, sealed and delivered, by which either of the parties pledges himself to the other that something is either done or shall be done, or stipulates for the truth of certain facts.

So, Her Majesty Queen Victoria, has pledged through her authority as the protector of the inheritance of the Crown (which is God the Father, Jesus Christ and the Holy Spirit), to Covenant with us through this Grant of land, this Deed of Trust. And because she gives a 'Power of Attorney' in the form of the Letters Patent to her servants the Parliament of Australia, the Governors and Governor-General, they are bound by that pledge just as surely as if it were their mouth that had spoken the words, their heads that had carried the Crown, and their hands that had accepted the scepter and the orb.

When these entities of corporate government dare to attempt to steal that which is not theirs in the form of this covenant relationship over our land, they are spiritually breaking the Word of God, wherein He promised to us, through Victoria, Her Heirs & Successors, the free occupation of our land.

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### Information about our Deed

#### CONVEYANCING ACT 1919

##### 23B Assurances of land to be by deed

(1) No assurance of land shall be valid to pass an interest at law unless made by deed .

##### 50 Rights of entry etc

(1) Every right of entry, contingent remainder, and every contingent or executory or future estate, right, or interest, or possibility coupled with an interest, in property, may be conveyed by deed

(2) Any conveyance of a present right of entry in any land, other than a conveyance to the person in possession thereof, and any covenant or agreement for, or promise of a conveyance (other than as aforesaid) of the same shall be void as against the person in possession or those claiming under him or her unless the person conveying or covenanting, agreeing, or promising to convey, or the person through whom he or she claims has been in possession of the land within twelve months from the date of the conveyance, covenant, agreement or promise.

**First point** – no one can transfer an Interest in our land without holding the deed. Remember an Interest is a partial 'ownership'. A Mortgage is an Interest until such time as the money is finally paid, hence the bank holds the deeds. At all times we must know where our deeds are. If we are to protect our land ownership we must hold the deeds.

Information has been given to us to indicate that banks are not providing the deeds when the mortgage is cleared and it has taken some people over 6 months to get their deeds. When they have been returned the deeds are stamped **Archival** and have holes punched in them. Other information has indicated that the relevant government departments in QLD have been destroying not only deeds, but any document carrying the Seal of the Crown.

A recent case in America concerned the Deutschebank

foreclosing on 13 home owners. The court demanded the bank produce the deeds to prove their right of debt. They were not able to and the court refused to allow the foreclosure. At the point of the mortgage being signed, the bank sells the debt onto other customers, sometimes going through 3-4 hands. Therefore it is more common than not that the bank does not have your deeds any more and will not be able to find them.

In that event, apply to the court for a new copy.

**Second point** – Your deeds indicate all the rights on your land. Which means that your deeds carry your title, any reservations, any mortgages, any easements, encumbrances, etc. They are the legal proof of your rights on your land. If it is not attached to your deed, it has no legitimacy over your land.

Three important High Court cases verify our land rights via the Torrens Title register.

• **LAPIN & ANOTHER v ABIGAIL [1930] HCA 6; [1930] 44 CLR 166 (28 March 1930)**

A bank mortgage was held over 2 parcels of land. The owner Lapin owed money to and handed over the deeds to a second party in exchange for paying out the bank. The new owner Heavener borrowed money privately from Abigail to pay out her bank mortgage, Abigail took a caveat over the land. Lapin contended he had not sold the land but only given the deeds as surety. As Lapin's ownership was still registered under the Torrens Title, he was decreed as the real owner of the land.

*“Under the Torrens' system it is registration of a dealing which operates to extinguish inconsistent equitable titles. The system provides the machinery of caveats in order to enable the owner of an equitable interest to forbid registration and thus preserve his equity.”*

• **PIRIE v REGISTRAR-GENERAL [1962] HCA 58 (1962) 109 CLR 619 (30 November 1962)**

The registered proprietor of the land asked the Registrar-General to cancel a notification on their certificate of title and the RG refused. The High Court ruled in the land owner's right.

*“...it seems to me that it is not for the Registrar-General to decide whether an entry should be cancelled because it was not authorized by s. 88(3) and then to act upon his own decision, .....”*

*“It follows, I think, that the Registrar-General whose duty it is to put no unauthorized entries in the register book is under a corresponding duty to remove any that ought not to be there.”*

*“.....the Registrar-General had, in effect, refused - and refused improperly - to issue to the applicant a certificate of title under the Act.”*

• **HILLPALM PTY LTD v HEAVEN'S DOOR PTY LTD [2004] HCA 59 (1 December 2004)**

A portion of land had been divided, council had required an easement to the land-locked block be registered as attached to that portion. It was not done. At a later date, after blocks were sold, the new owner of the land-locked block demanded the court enforce the easement. Although the correspondence and council plans indicated the easement, as it was not attached to the deed it could not be enforced. The new owner lost the case.

*“The respondent now has no registered easement of way over the appellant's land. None is recorded as an exception, encumbrance or interest on the title to the appellant's land. Can the respondent compel the appellant to grant it such an easement and compel the appellant to construct a track along that easement?”*

*““Notwithstanding the existence in any other person of any estate or interest which but for this Act might be held to be paramount or to have priority, the registered proprietor for the time being of any estate or interest in land recorded in a folio of*

*the Register shall, except in case of fraud, hold the same, subject to such other estates and interests and such entries, if any, as are recorded in that folio, but absolutely free from all other estates and interests that are not so recorded”.*

Barwick CJ said in *Breskvar v Wall*:

*“The Torrens system of registered title ... is not a system of registration of title but a system of title by registration. That which the certificate of title describes is not the title which the registered proprietor formerly had, or which but for registration would have had. The title it certifies is not historical or derivative. It is the title which registration itself has vested in the proprietor.”*

These 3 cases clearly show that nothing can be attached to our title without our permission, whether it is a mortgage, or an easement or whatsoever. However, government documents are giving fraudulent information on the truth of ownership.

**A report published by the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs states –**

*“There are many forms of ownership title including –*

- *Common Law or Old System Title*
- *Torrens Title*
- *Company Title*
- *Strata Title*
- *Community Title*
- *Perpetual Lease or 99 year Lease*

*The most common type of ownership is ‘Torrens Title’. This usually applies to a standard residential suburban house with its own yard. Some townhouse or courtyard blocks also have Torrens Title. As long as repayments on mortgages are kept up to date and there are no government or council plans to resume the land, Torrens Title offers the most permanency. As a Torrens Title owner you are responsible for the cost of all rates, services, maintenance and improvements to the property. Subject to regulations, you can alter the building or property. You might also have to meet the terms of any building ‘covenants’ you have signed. These are agreement with developers that have terms and conditions about alterations.”*

The details of this whole document are not just in error, they are fraudulent and criminal. This document, designed to give details of home ownership, can only lead us to assume that government have a deliberate plan to remove true land ownership through deception and misinformation. As well, this document places government in false ownership of our land via such statements as “you are responsible for...all rates....”

A document from eChoice Home Loans, states *“Old system titles can be converted to Torrens title.”*

Information from QLD is that several years ago, landowners were encouraged to turn in their “old titles” and were then given a Torrens title registration. Torrens is now compulsory in QLD.

Domain Financial Services states – *“Torrens Title is the most common form of property title in Australia. All previous and current owners are listed on the one deed, as are all previous mortgagees etc. Also known as “RPA” standing for “Real Property Act”, the legislation that governs the operation of Torrens Title.”*

And there are many properties for sale listed as Torrens Title properties.

**Mr Kerry Shine, Minister for Justice and Member for Toowoomba in QLD** stated that in a reply to a letter from a constituent, published in the Toowoomba Chronicle August 11, "Finally, in relation to Mr Patch's third enquiry (TC 25/07), **Common Law land rights have not applied to Queensland freehold land since the introduction of the Torrens Land Title system in 1861 or the leasehold lands which are governed by the Lands Act 1994. The "Brigalow Corporation" simply administers land pursuant to this Act. This system functions effectively to protect the interest of private landholders in Queensland.**"

Common Law land rights being a Grant in Fee Simple.

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### **Why this deception?**

In 1973, Gough Whitlam authorized a Commission into Land Tenures, headed by Sir John Kerr.

This document of over 900 pages stated that the private land owner should not be allowed to benefit financially from government activities such as re-zoning. To prevent this, the owner should have his ownership rights regulated away, so that any zoning benefit would be offset by the loss of land use rights. The suggestion was made to buy all land back into Crown hands, but the authors recognized the cost factor would be too immense.

This document did not, at any stage, recognize the rights inherent in a Grant of Fee Simple.

The overall decision of this document was to completely regulate all aspects of land use, resume land where possible and allow major and chosen developers to develop specific areas. The individual could build a house on that land, with the right to sell it, but would never be allowed to own the land.

Gough Whitlam is widely recognized as the 'leader' of the Fabian Society in Australia.

This Society favours gradual incremental change rather than revolutionary change, tactics of harassment and attrition rather than head-on battles. They plan to create socialist states in Australia by promoting Marxist and Darwinist doctrines. Fabians favour the nationalization of land. **They have stated, "We must make land common property."**

The Fabian Coat of Arms was originally a **WOLF IN SHEEP'S CLOTHING.**

**Hawke & Rudd both looked to Whitlam as a mentor**

### **Quotes**

*Mr. Whitlam reiterated his contention to use section 96 of the Constitution as a means of "competing" with private enterprise. In effect this is the selective use of the government's power in the credit field to put free enterprise at a disadvantage to government "enterprise".*

*Mr. Hawke told his Fabian colleagues in Melbourne "For our reforms to endure, the whole mood and mind and attitudes of the nation must be permanently changed". This is an appeal for a programme of national social engineering.*

*He also said in that speech, "The Fabian Society acknowledges the principal tenet of Marxism, the abolition of private property, in this case to own land. They then align themselves with the non-violent arm of Marxism by accepting the non-violent road of patient gradualism to total government."*

### **What Methods of Deception have brought about massive removal of land ownership rights?**

- Council zoning
- Development applications
- Irrigators Water Buy-Backs
- Land Clearing Laws
- Native Animal Wildlife corridors
- State Parks
- Forest plantings
- Carbon emission taxes (proposed)
- Environmental laws
- Land care grants
- Native Vegetation laws
- Global Warming propaganda.
- And etc

While we may personally favour some of these measures, it is no longer a myth that they have all combined to remove our common law land ownership rights at a massive pace. 100's of hours of personal research have led me to believe and state that all these regulations were not intended for the betterment of either the Australian Continent or the people who make it home.

Their one over-reaching aim was to take the land out of private ownership, lock it up, place the citizens in structured, regulated housing and create a form of communist control that is almost complete.

We are now seeing Whitlam's plan in action. Farms being closed down for lack of water that they still pay for. People's homes resumed and turned into park land, which is then leased to major corporations to be turned into resorts. Land resumed at basic costs, for public purposes, then sold to become housing estates.

### **Can the Courts Help?**

Many believe the courts are corrupt, the lawyers are corrupt, the judges are corrupt. And some may well be. But your rights are still in place, just well hidden. To find them, you must enter the right court. Common Law carries the law of the Sovereign people.

Civil law courts are the magistrate courts, Land and Environment Courts, Mining Warden's Courts, Family Law courts and the like. All boards, commissions, panels, etc operate essentially under Civil law. Civil law is the law of corporations.

### **Harry Brandy v Human Rights & Equal Opportunity Commission & Ors F.C. 95/006 [1995] HCA 10; (1995) 183 CLR 245 Constitutional Law (Cth) (23 February 1995)**

In this case, the High Court of Australia, stated verbatim – that a private individual using judicial powers to remove rights and/or to punish an individual in a judicial manner is in breach of Chapter III of the Constitution of Australia, and becomes subject to appropriate judicial action themselves.

Judges Deane, Dawson, Gaudron and JJ McHugh state....

*"...it is not essential to the exercise of judicial power that the tribunal should be called upon to execute its own decision....it is apparent that the Commission's functions point in many respects to the exercise of judicial power. It decides controversies between parties and does so by the determination of rights and duties based upon existing facts and the law."*

*" Thus Kitto J in Reg. v. Gallagher; Ex parte Aberdare Collieries (69 (1963) 37 ALJR 40 at 43) said that judicial power consists of the "giving of decisions in the nature of adjudications upon disputes as to rights or obligations arising from the operation of the law upon past events or conduct".*

Common Law courts are Chapter III Constitutional Courts properly formed under the Judiciary Act. The only courts in which you will find your common law rights are the Common Law division of the Supreme Court and the High Court.

The current propaganda involves many newspaper articles about whether the High Court is worth keeping. And Mr Hatzegeos of the NSW State Parliament recently demanded that the High Court justices keep their hands off laws! Maybe the real issue for both State & Federal Government is that, like the Queen, it is not the power the High Court has, but the power it denies to others.

### **Where do we stand?**

We have two forms of government in Australia, the true *de jure* Constitutional Parliament which still has its structure in place, but is non-existent at present.. And the phony, fictional, pretend *de facto* government that has taken over.

The Australian Constitution has been replaced with the Australia Act. Her Majesty Queen Elizabeth II, Her Heirs and Successors have been replaced with the Queen of Australia. The people's right of Mandate has been stolen and is used to validate every new act of suppression. The *de jure* government's role of "peace, order and good government" has been replaced with *de facto* version of "us first, you last". This *de facto* government uses the right words to commit the wrong acts against the people.

QLD calls itself a sovereign state, which is an act of war against the people of the Commonwealth, because the "Made", being corporations, parliaments, etc are thereby placing themselves ABOVE their "Creators". And if, as has been stated, Australia is now a foreign country to the Queen, then Her heirs and successors are the people of the Commonwealth – us. We are therefore the Sovereigns. WA has removed the Crown from its *de facto* government, and made mining the god.

Over 62 public servants are attainted and indicted for Treason. No-one accused of treason can hold public office, or stand for public office, yet all 62 are either still in office or participated in the Federal and NSW State elections.

**The Legal definition of Treason** – *the offence of attempting to overthrow the government of the state to which the offender owes allegiance; or of betraying the state into the hands of a foreign power. Also compassing or imagining the death of the king or queen; giving the king's enemies in his realm aid and comfort.*

All public servants commit treason when they swear the oath or affirmation of the Constitution, then state they support a Republic.

All public servants commit treason when they follow the ethics of such subversive communistic groups as the Fabian Society.

All public servants commit treason when they plan to remove the King of Heaven from His rightful place of authority over a Christian country and over our covenanted land ownership rights.

All public servants commit treason when they plan an act of war against the people of the Commonwealth, by plotting to manipulate the minds of the people in order to bring about the servants stated intention of a new constitution and republic.

It is time we, the people of Australia stood up against these fictional governments and demanded the return of our country to the Common Law and the 9<sup>th</sup> July 1900 Constitution of the people of the Commonwealth that our diggers fought to protect.

Before Australia had been discovered it was an unshaped area on the explorers' maps, known as *Terra Australis del Espiritu Sanctus* – *Great South Land of the Holy Spirit*. God has always had His Hand on Australia. What He gave to us, only He can take away.

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With many grateful thanks to the many sovereign people who have shared information which has been used in this document. I claim nothing more than the compilation – Sue Maynes  
Without Prejudice UCC1-207