

**Form 53    Notice of a constitutional matter  
under section 78B of the Judiciary Act  
1903**

(Order 51)

IN THE FEDERAL COURT OF AUSTRALIA

VICTORIA DISTRICT REGISTRY

No VID52 of 2008

Arthur Dent  
Appellant

Australian Electoral  
Commission  
First respondent  
Daryl Wight  
Second  
Respondent

**NOTICE OF A CONSTITUTIONAL MATTER**

1. Appellant gives notice that the above proceeding involves a matter arising under the Constitution or involving its interpretation within the meaning of section 78B of the *Judiciary Act 1903*.

2. The nature of the matter is an appeal to the Full Court of the Federal Court of Australia, by an Australian citizen over the age of 18 of no fixed address from a purported summary dismissal without notice of an application for enrolment, suppression of enrolment address, declaration that the applicant is entitled to be enrolled under the name Arthur Dent and was entitled to be enrolled under that name at the hour of nomination, 12 noon on Thursday 1 November 2007, acceptance of nomination as a candidate for election as a Senator representing the people of Victoria pursuant to the writ for an election issued on Wednesday 17 October 2007, declaration that the writ purportedly returned on 21 December 2007 was null and void, declaration that the election of Senators representative of the people of the State of Victoria pursuant to the writ has wholly failed, damages, exemplary damages, costs and other relief including such further, other ancillary or consequential orders as are appropriate.

3. The orders appealed from were made in proceedings VID982 of 2007 on 14 December 2007 purportedly pursuant to s31A(2) of the *Federal Court of Australia Act 1976 (Cth)* ("FCA")

4. The judgment of Gordon J appealed from certified on 20 December 2007 is:

Arthur Dent v Australian Electoral Commission and Daryl Wight VID 982 of 2007. [2007] FCA 1991

<http://www.austlii.edu.au/au/cases/cth/FCA/2007/1991.html>

5. The Full Court (French, Tamberlin and Mansfield JJ) will be concurrently hearing and determining together with the appeal, the following applications also at 10:15am on Monday 19 May 2007 in Court ONE, level

8, 305 William Street, Melbourne:

1. Leave to appeal the decision appealed if leave is necessary.
2. Extension of time to file and serve a Notice of Appeal from the costs order of Justice Jessup in an oral application in the same proceedings as the judgment appealed from heard at 4pm on 1 November 2007 (VID 269 of 2008).

[http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2007/2112.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2007/2112.html)

3. Extension of time to file and serve a Notice of Appeal from the decision and reasons for decision of the Administrative Appeals Tribunal relied on in the judgment of Gordon J, [2007] AATA 1985 dated 23 November 2007 (VID 271/2008).

<http://www.austlii.edu.au/au/cases/cth/aat/2007/1985.html>

6. The judgment of Gordon J also relied heavily on an interlocutory decision of Ryan J in the same proceedings: [2007] FCA 1698.

<http://www.austlii.edu.au/au/cases/cth/FCA/2007/1698.html>

7. Headnotes to the various judgments and AAT decision and extensive footnotes to the AAT decision cite a large number of provisions of the Commonwealth Electoral Act 1918 (Cth) ("CEA"), regulations under CEA and other legislation, statutory instruments and authorities, which may result in the Court needing to construe and or determine the validity of the legislation and judgments cited and by what authority they were

made in the light of the *Constitution* – recursively.

Copies of the Notice of Appeal and all other Appeal Papers including the judgments and complete official transcripts in the form of an online ISO 9660 file for production of a CDROM have been served on the respondents and are hereby served on the recipients of this Notice of a Constitutional Matter:

<http://www.arthurdent.info/project/mandamus/work/appeal-book/VID52.iso>

The direct URL for 10MB download is:

[http://www.arthurdent.info/project/mandamus/work/appeal-book/VID52.iso/at\\_download/file](http://www.arthurdent.info/project/mandamus/work/appeal-book/VID52.iso/at_download/file)

8. Any further documents available from the appellant to the recipients of this notice will be made available for download via links from the same folder:

<http://www.arthurdent.info/project/mandamus/work/appeal-book>

9. An arrest warrant for the appellant on behalf of the Australian Electoral Commission was executed at an index settlement appointment with the respondents apparently in the hope of preventing the current Full Court hearing before the persons certified as Senators representing the people of Victoria by the respondents take office on 1 July 2008.

10. Transcripts are available at:

<http://www.arthurdent.info/project/mandamus/work/internal/transcripts>

11. As foreshadowed at a callover before Black CJ on 5 Decemer 2007 appellant will apply to the Full Court to join a continuation or revival of the original Federal Court Full Court proceedings VG96 of 1996 appealing the original proceedings apparently revived before Smith J to the current proceedings so that they can be remitted to a single judge for final disposal without further complications arising from the omission of an order with respect to costs ordered by Beach J by a Full Court when the Full Court vacated its own costs order and ordered that the applicant be released forthwith.

12. Appellant also contends that s57 of CEA is not a valid law of the Commonwealth but an arbitrary determination of the number of members for electoral divisions associated with an arbitrary division of Australia and in particular Victoria into electoral divisions and of those divisions into subdivisions.

13. This arbitrary determination and associated "Proof of Identity" measures has now been used to arbitrarily disenfranchise some 70,000 electors, including large numbers of residents of Victoria who attempted to vote at the election for Senators from Victoria on the completely spurious grounds that they either had not adequately kept the respondents informed as to which particular subdivision they lived in or had not provided copies of private documents about themselves attested to by classes of persons acceptable to the respondents

after polling day or had declined to have their secret ballot papers placed in sealed envelopes marked with means of identifying them.

13. The legislature is explicitly prohibited by s29 of the Constitution from making determinations of electoral divisions or the number of members to be chosen from each electoral division itself and instead granted only a power to make laws for determining. In the absence of any such valid law for determining each state remains a single electoral division for both Senate and House of Representatives elections.

14. Respondents have not filed any Notice and apparently take the view that doing so would be an admission that Gordon J was completely without jurisdiction.

15. For further details start with the Notice of Appeal seeking an expedited hearing prior to persons certified as Senators representing the people of Victoria taking office on 1 July 2008 and listing a number of sections of the Constitution.

Date: 9 May 2008

Signed: Arthur Dent, Appellant

[signature of Arthur Dent is hereby affixed]

**Version 1**

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