

NT OFFICE STATUS of FAMILY

FAMILY SERVICES CONSUMER REPRESENTATIVE

NT OFFICE STATUS OF FAMILY
Post Office Box 988
PALMERSTON NT 0831
♦
Phone 08 8932 3339

19th May 2011

Commonwealth Attorney General
Parliament House
CANBERRA ACT 2000

Honourable Robert McClelland
Dear Sir Personal attention please

Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Director Ian McPhee
Dear Sir Personal attention please

Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Ombudsman Allan Asher
Dear Sir Personal attention please

Australian Federal Police
GPO Box 401
CANBERRA ACT 2601

Commissioner Tony Negus
Dear Sir Personal attention please

I write to you collectively because you are the principal officers of these 'watch dog' agencies over Child Support Agency (CSA) and Social Securities Tribunal (SSAT) and associated 'family law' matters.

I reiterate to you on the matter of Commonwealth Government due process :-

- When CSA change from 'taxable income' child support calculated amounts to 6A 'administrative assessment' by giving false claims for this change false approval and processing **causing an unlawful overcharge against the lawful amount** – it is unlawful conduct by officers of the Commonwealth Government against the Commonwealth Government and its Citizens. [Note many false applications have family court orders as underpinning evidences to the claim being false. When CSA ignore this duty and their investigation of the application and applicant. To then unlawfully force upon the respondent if they know

and how {they are not told} to make a cross application. Is in any case a breach of due process not to investigate an application but instead misuse it allegedly as a CSA and SSAT's own 'investigation'. Thus the female {mother} applicant will inevitably 'win'.

- When CSA out of unlawful processing arrive at the payers' component and consequently 'overcharge' by further unlawful processes {collecting money from a citizen having no such lawful debt and by Commonwealth systems transferring it to another citizen not lawfully entitled to the money} it is wholly unlawful and - begins unconstitutional "Civil Conscription" by the Commonwealth Government.
- When SSAT fails to review the CSA case denovo ("a new" and independently under the same case facts and legislation) and instead simply 'rubber stamps the false determination of CSA {because SSAT do not follow their own due process and do not know due process of CSA as they must} then SSAT – behaves both unlawfully and unconstitutionally proffering civil conscription by the Commonwealth Government.
- When CSA act under the Child Support Collection Act collecting the unlawful overcharge then CSA – behave unconstitutionally enforcing civil conscription {note below}
- When CSA instructs Australian Government Solicitors to proceed to court and foreclose on the 'overcharge' then The Commonwealth prosecutes an innocent Citizen {the overcharged amount} via misleading the court with a vexatious proceeding out of unconstitutional civil conscription.

Authorities definition of 'Civil Conscription'

Latham CJ of the High Court expressed the view in his leading judgement on "BMA versus The Commonwealth" 1940 that :-

- "The term Civil Conscription' Is applicable in any case a civilian. ie does any non-military work or service. It could be applied to any compulsion of law requiring that men *should engage in a particular work or in a particular way.*"

Latham CJ in the above judgement said that the experience of European history was that "The most successful compulsion of services was to be found in *the deprivations of the means of substance.*"

In the "General Practitioners versus The Commonwealth" case, 1980. Barwick CJ agreed with Latham CJ's statement in the earlier case that civil conscription could result from *practical or economic considerations.*

Aitken J pointed out in the same judgement that imposition by legislation of economic pressure that is difficult or unreasonable to resist would be *just as effective* as legal compulsion, and like, legal compulsion, be a form of civil conscription.

Murphy J stated that *practical compulsion* as distinct from legal compulsion is enough to satisfy 'Civil Conscription' in s51. {note below}.

Murphy J opined that if Medical and Dental practitioners could be rendered exempt from civil conscription under the Constitution and it would be reasonable for other classes to be exempt. And at law perhaps they already were.

The opinion of Murphy CJ followed upon the assertions of Robert Menzies in 1946 (while Leader of The Opposition) that "if industrial workers were to be protected against conscription the members of the medical and dental profession *should be entitled to similar protection.*" The Menzies proposal was to ban civil conscription of that particular class of person (along with other proposals) put to the Australian people in a referendum in September 1946 was carried both nationally and in six states.

Murphy J in the case he dealt with on the High Court, often reasoned from the 'silent constitution principles ... not mentioned in the constitution'. "the democratic theme of the constitution" and implied rights arising from the constitution itself ("A Constitution for a free Society"). These doctrines have found increasing favour since Murphy CJ's time.

S51 @ (xxiiiA) of the Constitution states

- For provision of maternity allowances, widows pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (*but not so as to authorise any form of civil conscription*), benefits to students and family allowances.

Conclusions

1. When the Commonwealth Government by Constitutional decree cannot civilly conscript unemployed persons to work it likewise stands that only because a child support payer may be earning 'less' to no formal criteria cannot either be civilly conscripted to increase their income to no formal higher criteria. Thus payers cannot be 'overcharged' child support above their actual earning earnings. Save in the case of 'proven' fraudulent under reporting to Australian Taxation Office. [NB payments are tied to 'income' ensures (a) capacity to pay (b) fairness (c) capacity of continuity paying an amount of child support – including if on unemployment benefits. *{There maybe discussion if one small portion of the Child Support Assessment Act @ s117 is unconstitutional or only how officers are overzealously misinterpreting it- separate discussion at another time}*.
2. If CSA and SSAT complied with all case facts and due process under the legislation then there would be no "overcharging" and no journeying of The Commonwealth into zones of unlawful and unconstitutional activities. *{There is no reasonable excuse they are not complying and no explanation of serially consistent failures favouring women – who make false applications no less}*.
3. The rampant angst and false expectations and financial injuries and injustices between parents simply would not occur and manifest into hatreds and revenges and bad parenting and suicides and parental murders and suicides. *{Subject to the*

family law system and family violence and child protection systems being similarly allowed to degenerate into similar vehicles of spite operated by the Commonwealth Government but substantially staffed by an insurgent power "controlling Government" via its Administration and substituting its own self centred ideology}. {The falsely created angst is inflicting both genders towards each other and against CSA and Government}.

4. Membership of EMILY's List should be deemed a legal conflict of interest banning any of its members from being a Portfolio Minister of any human services portfolio. Please note the annexure. It being apparent with certain evidences that these portfolios are being used unlawfully as a Trojan Horse for EMILY's List and feminism in general's own sole gender service deliveries and 'controlling Government. {They made no secret of it until they achieved defacto governance and now deny all they afore said}

This upholding such as due process is the everyday duty of the offices to which this is directed. It should not be my role but I do it willingly in retaining our democracy as set under the Constitution and The Legislature.

Please fix

- Restore lawful due process by restoring staff compliances.
- Remove the insurgent power.
- Maintain better audits of staff compliances to case facts, legislation and due process.

Would the Attorney General please note this as briefing material for our June 29th meeting in Darwin.

Please contact me for any further assistance and evidences I hold or can guide you to.

This will be distributed to a wider community victimised by well paid bureaucrats unwilling to ruin a good job by doing real work. Rip Van Winkle or blind eyeing while an insurgent takes over. With respect for the official office and as far as the victimised and their representatives can remain also of the appointed officers. Please fix.

Sincerely



Robert E Kennedy Coordinator



EMILY's List Australia

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- Women who are committed to equity, justice, self determination and full participation.
- Women who are pro-choice, pro child care and equal pay

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EMILY's List Australia

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NT/ACT	VIC
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Jennie George MHR	Throsby	NSW
• Julia Gillard MHR*	Lalor	VIC
Sharon Grierson MHR	Newcastle	NSW
Jill Hall MHR	Shortland	NSW
Julia Irwin MHR	Fowler	NSW
Sharryn Jackson MHR	Hasluck	WA
Catherine King MHR	Ballarat	VIC
Dr. Carmen Lawrence MHR	Fremantle	WA
Kirsten Livermore MHR	Capricornia	QLD
- Jenny Macklin MHR*	Jaga Jaga	VIC
Jann McFarlane MHR	Stirling	WA
Michelle O'Byrne MHR	Bass	TAS
• Tanya Plibersek MHR	Sydney	NSW
Maria Vamvakinou MHR	Calwell	VIC

SENATE (7)

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Senator Linda Kirk	SA
Senator Kate Lundy*	ACT
Senator Sue Mackay	TAS
Senator Jan McLucas	QLD
Senator Claire Moore	QLD
Senator Penny Wong	SA

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Pam Allan MLA*	Wentworthville
Meredith Burgmann MLC*	
Jan Burnswoods MLC	
Alison Meggarity MLA	Menai

President Legislative Council

Prime Minister

*Family Services
Family Violence*

Child Support

Sandra Nori MLA* Port Jackson
 Janelle Saffin MLC
 Marianne Saliba MLA Illawarra
 Carmel Tebbutt MLC*

Northern Territory (4)

Jane Aagard MHA* Nightcliff
 Delia Lawrie Karama
 Clare Martin MHA* Fannie Bay
 Marion Scrymgeour Arafura

Chief Minister

Australian Capital Territory (2)

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 Karin MacDonald MHA Brindabella

Queensland (21)

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 Bonny Barry MLA Aspley
 Anna Bligh MLA* South Brisbane
 Desley Boyle MLA Cairns
 Lesley Clark MLA Barron River
 Liddy Clark MLA Clayfield
 Wendy Edmond MLA* Mt Coot-Tha
 Jan Jarratt MLA Whitsunday
 Margaret Keech MLA Albert
 Linda Lavarch MLA Kurwongbah
 Carolyn Male MLA Glass House
 Jo-Anne Miller MLA Bundamba
 Cate Molloy MLA Noosa
 Lindy Nelson Carr MLA Mundingburra
 Rachel Nolan MLA Ipswich
 Anita Phillips MLA Thuringowa
 Diane Reilly MLA Mudgeeraba
 Christine Scott MLA Charters Towers
 Judy Spence MLA Mt Gravatt
 Barbara Stone MLA Springwood
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Frances Bedford MLA Florey
 Lyn Breuer MLA Giles
 Vini Ciccarello MLA Norwood
 Robyn Geraghty MLA Torrens
 Stephanie Key MLA* Hanson
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 Kathryn Hay MHA Bass
 Judy Jackson MHA* Denison
 Allison Ritchie MLC
 Lin Thorp MLC Rumney

Paula Wriedt MHA*	Franklin
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Kirstie Marshall MLA	Forest Hill
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Lisa Neville MLA	Bellarine
Karen Overington MLA	Ballarat West
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Western Australia (6)

Judy Edwards MLA*	Maylands
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Dianne Guise MLA	Wanneroo
Carol Martin MLA	Kimberley
Sheila McHale MLA*	Thornlie
Louise Pratt MLC	

* Denotes Ministers, except in Federal Parliament, denotes Shadow Ministers.

February 2003 * This page is a little out-dated - but still ...