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Submission on the draft of the **Currency (Restrictions on the Use of Cash) Bill 2019**

### **Title: Sorry, but it violates the Constitution**

While the intent of your draft bill may be laudable, it stumbles fatally before it can walk. Specifically, it appears to be in violation of the Australian Constitution in at least two sections, as well as falling down in other legislation. Therefore it is liable to be struck down by the High Court if referred there – and I presume its opponents will refer it there at the earliest opportunity, leaving its present drafters with rather a lot of egg on their collective faces.

The difficulty is that the High Court tends to interpret the Constitution rather literally – hence the debacle about dual citizenship in regards to running for Parliament. Personally I thought the High Court's interpretation there was unreasonable and even unconscionable, but the words are in the text, and no amount of favourable opinions from Government lawyers, the Solicitor-General or even the Attorney-General himself could prevent that.

The thing is, the constitution specifically bars restraints on trade between the States, and unless the legislation is specifically amended to exclude transactions that might take place between individuals or entities in different states, it immediately falls down.

The nub of the matter is that to exclude cash money over ten thousand dollars as payment for debts incurred for business transactions between individuals or entities in different states constitutes a "restraint on trade" between the states, and no amount of wishful thinking can make it otherwise.

See directly:

### **Section 92 – Trade within the Commonwealth to be free**

*"trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free".*

Courts have always interpreted the meaning of this section in the broadest of terms, hence it torpedos your legislation, at least in its present form. Also, if you look at the legal definition of "money" in numerous Federal and State acts, it includes cash money, and that can't be altered without a whole slew of amended laws being passed before yours could be put forward.

**By the way**, gold and silver coin is also an inalienable right as legal tender in payment of debts *within* States, according to **Section 115 of the Constitution**.

Back to the drawing-board, chaps.

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