

AFFIDAVIT
NUMBER

32.

CRIMINAL CODE (1995)

+

CRIMINAL ACT 1914 (CMA)



ACCOMPANYING AFFIDAVIT (32)

IN THE COUNTY COURT OF VICTORIA AT MELBOURNE AP-16-1957.

IN THE MATTER of an application under section 54 of the Vexatious Proceedings Act 2014

BETWEEN

THE ATTORNEY GENERAL FOR THE STATE OF VICTORIA Plaintiff

And

BRIAN WILLIAM SHAW Defendant

*Criminal Code Act
vs. Criminal Act 1914.*

Date of Document:	<i>7 December</i> 2016 <i>one</i>	Solicitors Code:	N/A
Filed on behalf of:	The Applicant	Telephone:	
Prepared by:	Brian William Shaw	DX:	N/A
		Ref:	N/A

I, Brian William Shaw, c/- of PO Box 800 Werribee Victoria do state and affirm the following:-

I. I STATE THAT THIS AFFIDAVIT EXHIBITS EXTRACTS FROM THE CRIMINAL CODE ACT 1995 (COMMONWEALTH) AND THE CRIMINAL ACT 1914 (COMMONWEALTH).

Brian W Shaw *McLennan*

AFFIRMED By Ben W Ph

AS Gisborne

DATE. Seventh day of December 2016

WITNESS

CMLemson

CARMEL CLEMSON JP
3/84 HAMILTON STREET
GISBORNE 3437
JUSTICE OF THE PEACE FOR VICTORIA
REG. NO 12355

Criminal Code Act 1995
(Commonwealth)
The Security of the Commonwealth

80.1 Treason

(2) A person commits an offence if the person:

(a) receives or assists another person who, to his or her knowledge, has committed treason with the intention of allowing him or her to escape punishment or apprehension; or

(b) knowing that another person intends to commit treason, does not inform a constable of it within a reasonable time or use other reasonable endeavours to prevent the commission of the offence.

Penalty: Imprisonment for life.

TREASON AND MISPRISON OF TREASON

Plus
Common Law .

CRIMES ACT 1914 CTH - SECT 34

Judge or magistrate acting oppressively or when interested

- (1) Any person who:
 - (a) being a judge or magistrate and being required or authorized by law to admit any person accused of an offence against the law of the Commonwealth to bail, in abuse of his office, requires excessive and unreasonable bail; or
 - (b) *being a judge or magistrate, intentionally and perversely exercises federal jurisdiction in any matter in which he has a personal interest;*

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

Current : SECTION 34 (4)

FEDERAL JURISDICTION
- HIGH COURT TRANSCRIPT -

Kable v Director of Public Prosecutions for New South Wales
S114/1995. (concerning Federal jurisdiction)

GUMMOW J: *If I can just interrupt you for a minute, Mr Solicitor, and I apologise, but it follows from what the Chief Justice was asking you in a sense: is it not the case that the Supreme Court here in this very case which has come here by special leave as an appeal, was it not the case that in this very matter the Supreme Court was exercising federal jurisdiction?*

MR MASON: *Yes, once the constitutional point was invoked.*

GUMMOW J: *It certainly was in play in the Court of Appeal?*

MR MASON: *Yes.*

GUMMOW J: *So section 39 of the Judiciary Act was crucial to the task of the Supreme Court?*

MR MASON: *Section 39 meant that it was exercising federal jurisdiction.*

GUMMOW J: *Yes.*

MR MASON: *And brought down whatever limitations flow from that. Mr Kable was not an interstate resident but the federal constitutional points were invoked at first instance and on appeal.*

CRIMES ACT 1914 - SECT 24AA (Commonwealth)

Treachery

A person shall not:

do any act or thing with intent:

to overthrow the Constitution of the Commonwealth by
revolution or sabotage; or

Penalty: Imprisonment for life.

CRIMES ACT 1914 - SECT 44 (Commonwealth)

Compounding offences

Any person who asks receives or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or herself, or any other person, upon any agreement or understanding that he or she will *compound or conceal* any indictable offence against the law of the Commonwealth or a Territory, or will abstain from, discontinue, or delay any prosecution for any such offence, or will withhold any evidence thereof, shall be guilty of an offence.

Penalty: Imprisonment for 3 years.

CRIMES ACT 1914 - SECT 43 (Commonwealth)

Attempting to pervert justice

Any person who attempts, in any way not specially defined in this Act, to obstruct, prevent, pervert, or defeat, the course of justice in relation to the judicial power of the Commonwealth, shall be guilty of an offence.

Penalty: Imprisonment for 5 years.



High Court of Australia

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**R v Rogerson [1992] HCA 25; (1992) 174 CLR 268;
(1992) 60 A Crim R 429 (17 June 1992)**

HIGH COURT OF AUSTRALIA

THE QUEEN v. ROGERSON [\[1992\] HCA 25](#); [\(1992\) 174 CLR 268](#)
F.C. 92/021
[\[1992\] HCA 25](#); [\(1992\) 60 A Crim R 429](#)

Criminal Law

High Court of Australia

Mason C.J.(1), Brennan(2), Deane(3), Toohey(2) and McHugh(4) JJ.

CATCHWORDS

Criminal Law - *Attempt to pervert course of justice* - Elements of offence - Police investigations - Whether part of course of justice - Frustrating or deflecting possible criminal prosecution - Whether identifiable offence must be in contemplation of accused or investigators.

Attempt to pervert course of justice

This matter deals with this particular criminal offence

The Supreme Court of Victoria by not accepting and listing according to law all lodged Grand Jury Applications is committing the above mentioned offence

Perversion of justice.

Rogerson v R [1992] HCA 25, (1992) 174 CLR 268;

Meissner v R [1995] HCA 41, (1995) 184 CLR 132;

R v Murphy [1985] HCA 50, (1985) 158 CLR 596;

R v Dunmall [2008] VSCA 22;

R v Aydin [2005] VSCA 85;

R v Walsh [2002] VSCA 98;

R v Briggs [2000] VSCA 234;

R v Coombe [1999] VSCA 94;

R v Allan [1995] 2 VR 468.

CRIMES ACT 1914 - SECT 42 (Commonwealth)

Conspiracy to defeat justice

Any person who conspires with another to obstruct, prevent, pervert, or defeat, the course of justice in relation to the judicial power of the Commonwealth, shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

CRIMES ACT 1914 - SECT 6 (Commonwealth)

Accessory after the fact

Any person who receives or assists another person, who is, to his or her knowledge, guilty of any offence against a law of the Commonwealth, in order to enable him or her to escape punishment or to dispose of the proceeds of the offence shall be guilty of an offence.

Penalty: Imprisonment for 2 years.