

BETWEEN

BRIAN WILLIAM SHAW

Applicant

- and -

THE ANZ EXECUTORS and TRUSTEE COMPANY  
LIMITED (AS THE TRUSTEES OF THE ESTATE  
OF JOHN WILLIAM SHAW, DECEASED

Respondent

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**AFFIDAVIT IN SUPPORT**

Application for Special Leave to Appeal  
M114 of 2012

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Date of document: 5<sup>th</sup> MAY 2013  
Filed on behalf of: The Plaintiff  
Prepared by: Brian Shaw  
Address: C/- P.O.Box 800 Werribee  
Victoria, 3030  
Tel: 0487 195 522  
no 6.

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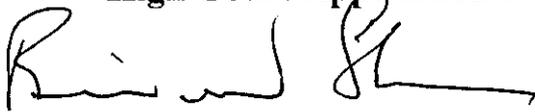
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I, Brian William Shaw, care of P.O. Box 800, Werribee, 3030 in the State of Victoria do state and affirm the following:

1. That this affidavit exhibits the High Court application for Special Leave to Appeal the Court of Appeal decision of Chief Justice Marilyn Warren and Justice Bongiorno.
2. That the principal Inter Se question is raised in this matter and states;  
"The whole cause is completely stopped at that stage if an Inter Se question is involved in the matter."

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Exhibit is marked; **"High Court Application No M114 of 2012"**

AFFIRMED BY: 

AT: WERRIBEE IN THE STATE OF VICTORIA

THIS 5<sup>th</sup> DAY OF MAY 2013.

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BEFORE ME: 



**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE IN THE COURT OF APPEAL**

**No. S APCI 2013 0043**

BETWEEN

**BRIAN WILLIAM SHAW**

**Applicant**

- and -

**THE ANZ EXECUTORS and TRUSTEE COMPANY  
LIMITED (AS THE TRUSTEES OF THE ESTATE  
OF JOHN WILLIAM SHAW, DECEASED**

**Respondent**

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**EXHIBIT**

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This is the exhibit referred to in the affidavit of Brian William Shaw affirmed on the ..... day of May 2013.

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Before me: \_\_\_\_\_

*Margaret M Campbell*

A JUSTICE OF THE PEACE FOR VICTORIA  
Reg. No. 9924  
Margaret May Campbell  
7 Muirhead Cres, Werribee 3030



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**“High Court Application No M114 of 2012”**

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IN THE HIGH COURT OF AUSTRALIA  
MELBOURNE OFFICE OF THE REGISTRY

No <sup>104</sup> 110 of 2012

BETWEEN

BRIAN WILLIAM SHAW

Applicant

And

Respondent

THE ATTORNEY-GENERAL FOR THE STATE OF VICTORIA

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APPLICATION FOR SPECIAL LEAVE TO APPEAL

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The Applicant applies for special leave to Appeal from the whole of the judgement of the Court of Appeal (VIC) 1 November 2012, The Honourable the Chief Justice M Warren and The Honourable Justice Bongiorno.

The Commonwealth v Bank of NSW  
Privy Council 1949 79 CLR 497 at 576

**“The whole cause is completely stopped at that stage if an inter se question is involved in the matter.”**

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Filed by Brian William Shaw  
Of Post Office Box 800  
Werribee Victoria 3030

Telephone 0487 195 522

## **GROUNDS**

That on 1 November 2012 the Full Court of the Supreme Court (Court of Appeal) was not in jurisdiction because of the inter se questions. The questions are repeated here.

### QUESTION 1

*The removal of The Statutory Oath of Allegiance from the Victorian Legal Practice Act 1996 is in conflict with the Legislative power of the Commonwealth in addition to excess of the State power, automatically making this issue an inter se issue.*

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### QUESTION 2

*The separation of the Office of Public Prosecutions Victoria from the Queen in the Public Prosecutions Act 1994 Victoria is in conflict with the Legislative power of the Commonwealth in addition to excess of the State power, automatically making this an inter se issue.*

### QUESTION 3

*The removal of the Crown of The United Kingdom from Specific Law within the State of Western Australia is beyond power and in direct conflict with the Legislative power of the Commonwealth, automatically making this issue an inter se issue.*

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### QUESTION 4

*The removal of the Crown of The United Kingdom from Specific Law within the State of Western Australia is beyond power and in direct conflict with the Legislative power of the Commonwealth, in particular Sections 12, 32, 106, 109 & 128 of the Commonwealth of Australia Constitution Act 1900, automatically making this issue an inter se issue.*

### QUESTION 5

*The current High Court Judges of The High Court of Australia are currently sitting in excess of their grant of power because of the removal of the Crown from Specific Law within Western Australia without the statutory referendum requirement as stated at Section 73 (2) of the West Australian Constitution Act 1889 and Section 128 of the Commonwealth of Australia Constitution Act 1900, automatically making this issue an inter se issue. The current High Court Judges in attempting to hear the inter se issues would be Judges hearing their own matter because they are Grand Jury Defendants in Victoria.*

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## QUESTION 6

70 *Since 1 January 2004 all elections held, Council, State & Commonwealth have been held & achieved in excess of their Grant of Power evidenced by the removal of the Crown from Specific law within Western Australia without the required referendum mandate, automatically making this issue an inter se issue.*

## QUESTION 7 (Coram Non Judice)

*Where courts of special and limited jurisdiction exceed their powers the whole proceeding is before a judge not competent or without jurisdiction and all concerned in such proceedings are held to be liable for trespass, which activates inter se in addition to a tort.*

## QUESTION 8 (Coram Non Judice)

80 *A decision which is the result of bias is a nullity and the trial is Coram Non Judice. The Full Court of the Supreme Court of Victoria on 1 November 2012 made a decision in bias and the trial is Coram Non Judice in conflict with the Commonwealth Constitution Act 1900. Because of the removal of the Crown and the oath of allegiance from specific law without abiding by the referendum requirement, making the Full Court of the Supreme Court of Victoria inclusive of the High Court, outside of a Chapter 3 Court, automatically making this Coram non Judice.*

## QUESTION 9

90 *In relation to the purported abolition of the Victorian Grand Jury Right under Section 354 Crimes Act 1958, it was beyond power for a Grand Jury Defendant (Mr Hulls) to introduce a Bill into the Parliament of Victoria, the Criminal Procedures Bill and cause to be enacted such Bill to remove Section 354 from the Crimes Act 1958 without disclosing that the introducer (Mr Hulls) was pending three Grand Jury hearings under Section 354, automatically making this issue an inter se issue in addition to the criminal offence by Mr Hulls of attempting to pervert the course of justice within Victoria and the Commonwealth.*

## QUESTION 10

100 *In relation to the Parliament of Victoria sitting within the Commonwealth of Australia Federation structure, after the unlawful removal of the Crown (all required referendums were omitted) from Specific Law within Western Australia, a Federation State. The State of Victoria, inclusive of the Parliament of the State of Victoria was sitting and continues to sit in excess of its Grant of Power and is in direct conflict with the Legislative Power of the Constitution of the Commonwealth of Australia, automatically making this issue an inter se issue.*

## QUESTION 11

110 *In relation to the foreign power organisation of International Freemasonry into the Laws of Australia, the oaths / obligations, edicts and allegiance of Freemasonry are in direct conflict with the Laws of Australia in addition to criminal offences in relation to the taking and administering of unlawful oaths stated Law in Victoria at Section 316 of the Crimes Act 1958 and a Constitutional breach of Section 44(i) of the Constitution of the Commonwealth of Australia. This in an inter se issue in addition to criminal offences revealed in documents filed for Grand Jury due process in the State of Victoria.*

## QUESTION 12

120 *In relation to the Governor of the State of Western Australia (Governor Sanderson) removing the Crown and Her Majesty, Queen Elizabeth the Second from Stated Law within Western Australia by the enactment of the overt Act titled “**Acts Amendment Repeal Courts and Legal Practices Act**” enacted on 1 January 2004 at Perth, Western Australia. This overt Act was and remains Ultra Vires, in excess of their Grant of Power and in conflict with the Legislative Power of the Constitution Act of the Commonwealth of Australia, automatically making it in an inter se question, in addition to the fraud on the Electorate but not limited to this Criminal Offence.*

## QUESTION 13

130 *In relation to the recent appointment of Alex Chernov into the Office of Governor of the State of Victoria, it was not disclosed to the people of Victoria, in particular the Electors of the State of Victoria and Electors of the Commonwealth of Australia, that Alex Chernov is and remains a Grand Jury Defendant in accordance with the Legal Right set out under Section 354 of the Crimes Act 1958 Victoria. The purported appointment amounts to malfeasance in Public Office and is in excess of power in addition to criminal offences against the Constitution and the people. The critical inter se issue here is found in Section 12 of the Commonwealth Constitution where the Governor of the State (Governor Chernov) issues the writ for the State Senators to sit in the Commonwealth Parliament.*

#### QUESTION 14

140 *In relation to the removal of the Oath of Allegiance from the Legal Practice Act 1996 Victoria, all officers of the Supreme Court of Victoria are operating in excess of their Grant of Power and are in conflict with the Legislative Power of the Constitution Act of the Commonwealth of Australia. The overt Act is Courts and Tribunals Legislation (Further Amendment) Act 2000, which is automatically an inter se issue and activates criminal offences.*

#### QUESTION 15 Exclusive Jurisdiction Conflict

150 *In relation to inter se the High Court has exclusive jurisdiction but the unlawful removal of the Crown without the required referendums and resultant criminal charges both filed and served relating to named High Court Judges for concealing the removal of the Crown. Consequently the High Court lacks jurisdiction and must remit the cause back to the Full Court of the Supreme Court of Victoria for determination by a Grand Jury for the indictment process followed by a normal jury in accordance with Section 80 of the Commonwealth, any interference or attempt to pervert due process will activate serious indictable offences.*

#### QUESTION 16

160 *Can the Commonwealth (The Constitutional Commonwealth) agree with or contribute to the removal of the Crown of the United Kingdom (In Western Australia, "The Acts Amendment Repeal Courts and Legal Practice Act 2004") without the required constitutional referendums, without creating a conflict of powers between the Commonwealth and the States in addition to excess of State power.*

#### QUESTION 17

170 *Can the Governor of Western Australia govern the State of Western Australia in legal conformity to the constitution of Western Australia and legal conformity to the Constitution of the Commonwealth after the removal of the Crown without the Constitutional referendums, by enactment of the Acts Amendment Repeal Courts and Legal Practices Act 2004 (Western Australia) in addition to excess of State power.*

## QUESTION 18

*Can the Governor of Western Australia legally issue a State writ for Senators in Western Australia under Section 12 of the Commonwealth Constitution Act 1900, or is the writ invalid after the unlawful removal of the Crown from Western Australia in conflict with the Constitution of the Commonwealth of Australia in addition to excess of State power.*

## 180 QUESTION 19

*Is the removal of the constitutional Oath of Allegiance from stated law within Western Australia (Acts Amendment Repeal Courts and Legal Practices Act 2004) without the constitutional referendums:*

- A. In excess of power*
- B. A conflict of powers*
- C. A criminal act of fraud*
- D. A criminal act of treason*
- E. Compounding offences*

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## CONFLICT OF POWER

*“There was a question of conflict where the one power of the State (Judicial Power) OR one power of the Commonwealth (Legislative power) should prevail. The contest was: Which of these two Australian powers of the Crown: State judiciary power OR Commonwealth parliamentary power dominated in the case before the court”*

*SOURCE: The Commonwealth of Australia v Kreglinger. 1926 VLR 310 at 357-358*

## JUDGEMENT A NULLITY

200 *“There was no jurisdiction to further entertain it and none to determine it. The judgement was a nullity”*

*SOURCE: The Commonwealth of Australia v Kreglinger. 1926 VLR 310 at 354*

## SUPREME COURT JUDGEMENT NULL and VOID

*“The result has been unfortunate for; in the opinion of the majority of this Court, the Supreme Court entered upon a matter which it had no jurisdiction to determine, and its final judgement in the proceeding before it is therefore null and void.”*

*SOURCE: The Commonwealth of Australia v Kreglinger. 1926 VLR 310 at 364*

210 DUTY TO NOT PROCEED

*“Declared that upon the said question arising before the said Full Court, it was the duty of that Court to proceed no further in the cause.”*

SOURCE: *The Commonwealth of Australia v Kreglinger*. 1926 VLR 310 at 340

NO ESCAPE

*“That court had no outlet of escape from deciding a constitutional point”*

SOURCE: *Pirrie v McFarlane*. 1925 36 CLR 170 at 194

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DISTRIBUTION OF POWERS

*“A question of the limits inter se of the powers of the Commonwealth and State means nothing more than a question as to the distribution of those powers.”*

SOURCE: *Flint v Webb*. 1907 4 CLR 1178 at 1182

OUTSIDE OF THE GRANT

*“Such attempted destruction or weakening is prima facie outside the respective grants of power.”*

230 SOURCE: *Pirrie v McFarlane*. 1925 36 CLR 170 at 194

GENERAL GRANT OF JURISDICTION

*“The States of the Commonwealth as a litigant in the State Courts can only be that of an independent Sovereign State unless and until there has been a general grant of jurisdiction.”*

SOURCE: *The Commonwealth of Australia v Kreglinger*. 1926 VLR 310 at 328

240 DEPRIVED OF JURISDICTION

*“Unless State Courts were deprived of jurisdiction in all cases in which a plea of a question of the limits inter se was raised by either party.”*

SOURCE: *Flint v Webb*. 1907 4 CLR 1178 at 1186

PRIVY COUNCIL AND STATE JURISDICTION

*“The appeal to the Privy Council lay in all matters in State Jurisdiction.”*

SOURCE: *The Commonwealth of Australia v Kreglinger*. 1926 VLR 310 at 317

PUBLIC INTEREST – PRIVY COUNCIL

250 “Circumstances might arise which would make it right in the public interests that the final interpretation of the constitution, or some question involving the constitutional powers inter se of the Commonwealth or and a State OR of a State and State should be left to the Privy Council.”

SOURCE: *Flint v Webb*. 1907 4 CLR 1178 at 1184

ULTRA VIRES

“Section 39 2(A) of the Judiciary Act 1903 Commonwealth would be Ultra Vires the Constitution.”

SOURCE: *Baxter v Commissioner Taxation*. 1907 4 CLR 1141 at 1143

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BAR TO PRIVY COUNCIL

“An appeal would have lain to the Privy Council as of right, was an attempt by Parliament to do indirectly what it has no power to do directly and was beyond its legislative authority.”

SOURCE: *The Commonwealth of Australia v Kreglinger*. 1926 VLR 310 at 316

ULTRA VIRES

270 “When deciding that if Section 39 purported to take away the right of appeal in that case to the Privy Council, it was Ultra Vires.”

SOURCE: *The Commonwealth of Australia v Kreglinger*. 1926 VLR 310 at 327

QUESTION OF FACT

“The question whether a particular Act is within the principal, must in every case turn on a question of fact, even if the view in *Deakin v Webb* 1 CLR 585 is right.”

SOURCE: *Flint v Webb*. 1907 4 CLR 1178 at 1183

280 ATTEMPTING TO PERVERT JUSTICE

ONE OF FACT

“For the person to be guilty of an offence against Subsection (1), the person’s conduct must be more than merely preparatory to the commission of the offence. The question whether conduct is more than merely preparatory to the commission of the offence “is one of fact”,”

SOURCE: *Crimes Act 1914 (Commonwealth) Section 43 (3)*

## ORDERS SOUGHT

1. That special leave be granted irrespective of the issue raised in Question 15.

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2. That the matter be referred back to the Full Court of the Court of Appeal of the Supreme Court of Victoria for immediate Grand Jury process for lack of jurisdiction, because of the indictable charges against the named High Court Judges.

*Judiciary Act 1903, Section 42 (2)*

3. A trial of the issue.

*Judiciary Act 1903, Section 77 (C)*

4. A certificate to appear at Privy Council

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A handwritten signature in black ink, appearing to be 'K. J. R.', written in a cursive style.

27 Nov 2012

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330 **To:** The Respondent  
Attorney General of Victoria  
Mr Robert Clarke  
121 Exhibition Street, Melbourne.

**TAKE NOTICE:** Before taking any step in the proceedings you must, within **14 DAYS** after service of this application, enter an appearance in the office of the Registry in which the application is filed, and serve a copy on the applicant.

340 The applicants address for service by **registered post** is:

Post Office Box 800  
Werribee Victoria 3030  
Telephone 0487 195 522