
TRANSCRIPT OF PROCEEDINGS

No.9997 of 2006

SUPREME COURT OF VICTORIA

PRACTICE COURT

MELBOURNE

FRIDAY 16 MARCH 2012

BEFORE THE HONOURABLE JUSTICE MACAULAY

ATTORNEY-GENERAL FOR THE STATE OF VICTORIA

Defendant

v

BRIAN WILLIAM SHAW

Applicant

The Applicant was not represented by counsel.

VICTORIAN GOVERNMENT REPORTING SERVICE
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145743

1 HIS HONOUR: Mr Shaw?

2 APPLICANT: I am, Your Honour.

3 HIS HONOUR: Mr Shaw, I have read the papers in this matter. I
4 understand that you are appealing the order made by
5 Associate Justice Daly on 20 February 2012. Am I correct
6 in understanding, Mr Shaw, that the appeal is directed to
7 the refusal of Her Honour to grant you leave to file and so
8 forth the subpoenas?

9 APPLICANT: Correct, Your Honour.

10 HIS HONOUR: Yes. Well, I have also had the benefit of some
11 written submissions that you have provided dated 13 March,
12 108 pages.

13 APPLICANT: Yes.

14 HIS HONOUR: Which I have read. And I have looked at the
15 subpoenas themselves which are annexed to the order of
16 Her Honour made on 13 December 2011.

17 APPLICANT: Correct.

18 HIS HONOUR: So this is a rehearing of your application. An
19 appeal, as you may well know, from an associate judge to a
20 judge of this court becomes a rehearing of the initial
21 application. So it's over to you to add to or explain the
22 submissions which you have provided in writing.

23 APPLICANT: Thank you. Your Honour, I have stepped up to the
24 bar table without any paperwork at this point because I
25 just want to work out whether you want to go ahead with it,
26 as right now, because I would assume it will probably
27 take in excess of half an hour, all the points that I want
28 to bring. But to shorten the whole issue, the
29 Attorney-General is not at the bar table which, in essence,
30 means that they are not opposing the application. So the
31 offside of that would mean - and please be respectful with

1 what I'm about to say - if that's the case, they are
2 leaving you to represent them. That's not judicial
3 fairness. In normal law, if the opponent does not appear
4 to oppose an application and the application is that the
5 subpoenas be permitted, if the opponent doesn't see fit to
6 come to the court, well, clearly it is just an application
7 that the subpoena has been permitted; but if we go the
8 other way, the Attorney-General is sitting in his office
9 leaving you to be his representative. That can't occur
10 because once I have stated my case and then they have the
11 opportunity to rebut it, at that point you add the
12 impartial mind to the equation.

13 Now, Your Honour, there is a question that has to
14 come up and it is for discovery and it is a challenge
15 because the issue clearly - and you would see that in a
16 submission - involves Freemasonry so, Your Honour, that is
17 the question that is now before the court. Are you or have
18 you ever been a Freemason?

19 HIS HONOUR: The answer is no, if it were relevant.

20 APPLICANT: Thank you. That is all that is required. I say
21 that because in a short background to that paperwork this
22 is actually my writ. I filed this writ and so in actual
23 fact I should be the plaintiff.

24 HIS HONOUR: When you say the writ, do you mean the - - -

25 APPLICANT: This one that has now brought this matter back to
26 the court.

27 HIS HONOUR: I think what you mean is in the proceeding, which
28 is Attorney-General for the State of Victoria v. Brian
29 William Shaw no.9997 of 2006, that is the application that
30 you be declared a vexatious litigant, in that proceeding
31 you have brought a summons to have the order revoked or set

1 aside, as you are entitled to under s.21(5) of the Supreme
2 Court Act. It is that process, your summons in this
3 proceeding, which brings you to essentially the court today
4 and which is on for trial on 18 July of this year, so you
5 are properly the applicant in this application, but you are
6 the defendant in the whole proceeding.

7 APPLICANT: I understand; and I just needed that totally
8 clarified.

9 HIS HONOUR: Now as for your first point, that because it is
10 unopposed you say therefore the judge becomes the
11 representative of the opposition, that is not correct. In
12 every application the applicant has the onus to satisfy the
13 court that they are entitled to the relief they seek. You ~~st~~
14 have to establish that onus to the satisfaction of the
15 court on the rules of law.

16 APPLICANT: Thank you.

17 HIS HONOUR: And that's what you are here to do.

18 APPLICANT: Now, Your Honour, should I proceed now, which means
19 I will need to lay my paperwork?

20 HIS HONOUR: Yes, I am ready to hear your application now but I
21 do indicate that I have read your written submissions so I
22 don't need a repetition of them. What you have to direct
23 yourself to, Mr Shaw, is why it is that you should be given
24 leave to issue or ask the court these subpoenas, which you
25 have drafted - the real question is, are those subpoenas
26 directed to adduce evidence which will be relevant to your
27 setting aside application on 18 July? Because if they are
28 not subpoenas which could be adducing evidence that is
29 relevant to your application to set aside the vexatious
30 litigant order, then they simply become an abusive process
31 and the court won't be ordering them. So that's your task; ~~st~~

1 do you understand?

2 APPLICANT: Your Honour, there is a few points that fall out of
3 that.

4 HIS HONOUR: But you get your materials so that you are ready to
5 proceed with the argument and then let's go. So just grab
6 your materials and bring them to the bar table.

7 APPLICANT: Do we need, like, a 10-minute break or are you okay?

8 HIS HONOUR: Why do you need a 10-minute break?

9 APPLICANT: It will take me a bit to lay them out properly.

10 HIS HONOUR: No, just bring them forward. I will wait until you
11 have done that.

12 It might help if I say what is relevant at the
13 hearing on 18 July 2012 so that you can be directing your
14 argument to whether the subpoenas that you want the court
15 to issue will be adducing evidence that is relevant to that
16 test, on 18 July.

17 The law is this: "An application to set aside an H
18 order declaring a person to be a vexatious litigant under
19 21(5) should not be allowed unless the court is persuaded
20 that there has been such a change in relevant circumstances
21 since the making of the order so as to make it appropriate
22 that the order be made. It must be demonstrated to the
23 court that there is no real risk of the applicant [that is
24 you] engaging further in the kind of conduct which
25 attracted the making of the order. If the applicant seeks
26 to adduce fresh evidence, it must relate to the issue of
27 whether he or she can demonstrate that the order should not
28 continue, for example, because of a change of circumstances
29 on the applicant's part."

30 Now if that is the test which is relevant for
31 18 July, then the evidence which you need to adduce has to

1 go to that test and, therefore, the subpoenas which you
2 want to issue need to be directed to that evidence.

3 APPLICANT: Thank you. Your Honour, there is a couple of points
4 that fall immediately into all of that. And just a short
5 breakdown. And because I'm a farmer you'll have to halt me
6 if I take a long walk, but when the matter first went in
7 front of Hansen J for the application, I actually employed
8 counsel. I had - - -

9 HIS HONOUR: Dr John Walsh of Brannagh.

10 APPLICANT: That was the barrister, but I had a lawyer that was
11 Ross Delahunty who has since had his ticket pulled and John
12 Walsh equally is facing some other issues, but that
13 representation only had one instruction and that the one
14 instruction did not - well, in actual fact it had two
15 instructions. Number 1, the matter involves the
16 constitution or an interpretation of that constitution. At
17 that point ... Your Honour could I just get a drink - at
18 that point they were actually told by me under instruction
19 to do the 78B requirement under the Judiciary Act. That
20 would apply here today, too, but they didn't do that. The
21 second instruction was that it was essentially a conflict
22 of the oath of allegiance being removed from the Legal
23 Practice Act but in Victoria by Mr Rob Hulls. Now Rob
24 Hulls himself has been charged by me on three separate
25 occasions in criminal jurisdiction and at the same time
26 every attorney-general of the Commonwealth was charged in a
27 period of 15 December 2006 to 29 January 2007. In that
28 period there were 40 defendants before the Magistrates'
29 Court. Now at that time, Your Honour, s.354 of the Crimes
30 Act Victoria applied; it still does apply. Under
31 instruction at that hearing John Walsh - - -

*AFFIDAVIT
Downing
No 26*

Section 354

1 HIS HONOUR: When you say it still applies, that's - despite its
2 revocation, you say it still applies.

3 APPLICANT: Your Honour, when I point out the points here, the
4 parliament can't be sitting validly to repeal it.

5 HIS HONOUR: That's all right. I just need to understand. I'm
6 not under a misunderstanding, am I, that the Parliament of
7 Victoria has repealed it although you say that is an
8 invalid repeal, do you?

9 APPLICANT: Totally.

74 AFFIDAVITS

10 HIS HONOUR: Yes. So long as I understand your argument.

11 APPLICANT: Well, let me add on to that, it is not just an
12 invalid appeal, it is actually criminal activity and I will
13 define what that is and why that is, because in R v.
14 Casement 1917, which is quoted in some of that material -
15 and I'll step back a bit, Your Honour, there's actually 74
16 affidavits filed into this matter; I wouldn't think that
17 you would be privy to them at this point.

REPEAL

18 HIS HONOUR: No, I have seen a list of them. I think you listed
19 them once.

20 APPLICANT: Yes, and they are actually all listed in what is
21 called the principal affidavit which is a 33-page
22 affidavit, affidavit no.1, and in affidavit no.1 all the
23 other documents, affidavits, are listed into that affidavit
24 which at one point or another will exhibit R v. Casement
25 and Sykes v. DPP (UK). Now both of those matters state
26 that the criminal offence of treason is breach of
27 allegiance. The twin of that is misprision of treason.
28 Misprision of treason is the concealing of the treason.

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29 HIS HONOUR: Yes, but you set that out at p.64 of your 108-page
30 submission.

H

Submission


Page 64.

31 APPLICANT: And that's quite clear?

1 HIS HONOUR: Well, I have read it.

2 APPLICANT: Yeah. I am actually sorry for giving you a
3 handwritten thing, but I had a computer glitch.

4 HIS HONOUR: No, I have read it. So that's what I am saying,
5 you don't need to - take me to the essential parts of your
6 argument.

7 APPLICANT: Well, the essential part is that issue that was
8 before Hansen J which, under instruction, was, if the 
9 Victorian Parliament through Rob Hulls, the instigator of
10 the vexation writ - and let me define vexation: somebody
11 lodging papers without reasonable cause of action.
12 Reasonable cause of action on this issue is an attack upon
13 the constitution and I will say it quite specific by
14 Freemasonry UK. / Now that is an allegation at this point
15 yet to be proven at a trial issue, but that in this
16 document, Your Honour, which could I hand up? I've got
17 another copy.

18 HIS HONOUR: No, because ...

19 APPLICANT: I just want to read it out and you can maybe follow
20 it.

21 HIS HONOUR: No. On a rehearing application, you are entitled
22 to make submissions. You are not entitled to adduce
23 evidence which you did not adduce in the court below, and
24 by that I mean Associate Judge Daly, without special leave
25 of the court.

26 APPLICANT: Your Honour, could I just interrupt there? Because
27 it is in the lists of the affidavits all filed, as in the
28 Act I'm about to read, it's already in the file so it's
29 already - and Associate Justice Daly admitted that she had
30 actually read all the material before the court.

31 HIS HONOUR: Very well.

1 APPLICANT: Now the point I want to make is in this issue, which
2 was not raised in front of Hansen J by John Walsh, which is
3 the courts and tribunals legislate a further Amendment Act
4 2000, assented to 5 September 2000.

ATFIDAWK DOCUMENT
NO 2.

5 HIS HONOUR: Is that a Victorian Act?

6 APPLICANT: No.51 of 2000 Victoria.

7 HIS HONOUR: Victoria, yes.

8 APPLICANT: Yes. In the 'purpose' it states this: "The purpose
9 of this Act is to make miscellaneous amendments to the
10 Legal Practice Act 1996, The Magistrates' Court Act 1989,
11 the Supreme Court Act 1986 and the Victorian Civil and
12 Administrative Tribunal Act. Now at part 2 under the head
13 of Legal Practice Act 1996 at s.3 the words appear "oath of
14 allegiance no longer required". That is the issue I

15 instructed John Walsh to bring to the court, but he knew
16 that being a practising barrister within Victoria and
17 giving instruction himself to Hutt River many years before
18 - and the instruction he gave to Hutt River was if you
19 remove the oath of allegiance you will not get your
20 principality. They put it back and got their principality
21 under that instruction. Now here he is, quite purposefully
22 instructed, to raise that point and that's all I paid him
23 for, but it was never raised and I handled the appeal
24 myself.

25 HIS HONOUR: Did Hansen J not refer to that allegation in his
26 reasons?

27 APPLICANT: There were no allegations there, they didn't raise
28 it. It wasn't raised from the bar table. I actually
29 slipped up a couple of notes, but they went underneath the
30 pad. But it says - and there becomes a problem here now,
31 Your Honour, in the next couple of points and that problem

Business Unit 19.

1 will introduce you to inter se work. The problem is, it
 2 says in s.6(1) of the Legal Practice Act ... now in the
 3 purpose it says to make miscellaneous amendments. This is
 4 not a miscellaneous amendment. This is an attack upon
 5 every law in the Commonwealth. In s.6(1) of the Legal
 6 Practice Act, for para.C substitute "takes an oath or
 7 office or makes an affirmation of office in the form
 8 required by the court". / Now, Your Honour, if I was to ask
 9 you what is the allegiance now because it is saying that
 10 the court must declare that allegiance, in simple answer,
 11 Your Honour, you can't answer it.

12 HIS HONOUR: I'm just trying to understand where this is going.
 13 You say because Dr Walsh didn't raise before with Hansen J
 14 the argument that the removal of the oath of allegiance was
 15 an attack, mounted to treason, where do you go from there,
 16 so what? Why does that make the subpoenas in this case
 17 relevant?

18 APPLICANT: Your Honour, what the officers of the Supreme Court
 19 are attempting to do is conceal evidence because
 20 essentially when you look at how many people have been
 21 charged for this offence, and it is a criminal offence ...

22 HIS HONOUR: This is treason you're talking about.

23 APPLICANT: Well, Your Honour, let me refrain from the word
 24 "treason" at this point.

25 HIS HONOUR: No, I'm just wanting to know what criminal offence
 26 you are referring to.

27 APPLICANT: Well, I'll give you an example: five judges who
 28 heard a grand jury application in 2001 were in actual fact
 29 all charged under s.34 of the Crimes Act (Commonwealth).

30 HIS HONOUR: And what does that say?

31 APPLICANT: That states: "A judge or magistrate exercising

Section 34

affidavit Document No. 34

X

H

H

1 federal jurisdiction with a personal interest, two years'
2 gaol".

3 Now at the time of the hearing, Your Honour,
4 President John Winneke was the president of the Court of
5 Appeal, brand new. When they were challenged - if I can
6 just back step a bit - it emanated from a civil writ being
7 refused ... the Supreme Court Prothonotary refused to file
8 a civil writ against Freemasonry Victoria. On the basis of
9 that, I applied for a grand jury application under the
10 criminal process and s.354. Five judges heard it. Now,
11 Your Honour, that was judicial corruption at its peak
12 because in - abiding by the law I issued 78B notices prior
13 to every attorney-general because it had a problem or a
14 question mark in relation to the Victorian constitution of
15 1975. The only one that intervened was the Hulls.
16 attorney-general of Victoria and Mr Rob Hulls. So in 2001
17 he is already the principal player in concealing these
18 issues before this court, but in 2001 I did not know then
19 that this Act was already in position, that it actually H
20 removed the oath of allegiance. Now that essentially means
21 that everyone who was in attendance with a judicial ticket
22 - and they can all claim "Well, I'm a bit older, therefore
23 I took my allegiance before that was removed", but that
24 doesn't cut the mustard because it simply means that if
25 you're sitting besides someone who has not taken it, you
26 are agreeing to their breach. Now that is all the laws of
27 accessory after the fact, complicit, etc., fall into
28 position.

29 HIS HONOUR: If you haven't taken the oath of allegiance, you're
30 what, guilty of what?

31 APPLICANT: Your Honour, these Acts here - - -

S.354
AFFIDAVIT
DOCUMENT
No 50

1 HIS HONOUR: If you wouldn't mind answering - - -

2 APPLICANT: I won't read them out.

3 HIS HONOUR: No, no, no, Mr Shaw, if you wouldn't mind ...

4 APPLICANT: All those Acts have an oath of allegiance.

5 HIS HONOUR: What I want to know is, if you haven't taken the
6 oath of allegiance what do you say you are guilty of?

7 APPLICANT: First off, if you haven't taken the oath, you can't
8 practise law. This is the Practice Court. You know that
9 this is where they have got to come to get that done.
10 That's why it is called the Practice Court. But if the
11 Practice Court says, as of September 2000, 5 September
12 2000, you don't need - the graduates from over the alley
13 don't need to come in here and take the oath of allegiance.

14 HIS HONOUR: And your next point is, but even if you have taken
15 an oath and you are sitting besides somebody who hasn't,
16 you are guilty as an accessory after the fact.

17 APPLICANT: Well, it's a bit bigger than that because Halsbury's
18 Laws of England state that in the offence of treason there
19 are no such things as an accessory. Everyone is principal
20 to the offence. That's clearly stated in Halsbury's Laws.
21 So treason is in either - and I prefer the common law
22 rather than the statute law, breach of allegiance. Now the
23 only emphasis that I instructed John Walsh to bring - now
24 essentially the vexation writ was issued by Rob Hulls
25 because I have criminally charged him on three different
26 occasions prior so his counter - and, Your Honour, I'll
27 clearly point out that he is legally trained, he knows that
28 if I file a criminal offence, that it is actually a false
29 charge, I can be charged for filing that criminal offence,
30 face the jury and have the consequences of the jury. Now I
31 charge a number who obviously all they've done is come into

*As far as
Documents
No 7.*

Hulls

CAROL

1 what you call a Kovel agreement as to how to put a feather
 2 on this guy that the public won't become aware of what
 3 we've done. Now the date of this assent is absolutely
 4 vital. It is 5 September 2000. Now what that means is
 5 that on 6 November 1999 every Commonwealth elector had to
 6 vote on a referendum question. The referendum question
 7 was: do we want to retain Queen Elizabeth and the Crown of
 8 the UK or do we want to revert to a Republic? That was the
 9 referendum question. Now clearly this bill was obviously
 10 before the Victorian Parliament at the time of the
 11 reference document. Now what they then concluded was - and
 12 we don't like the referendum result, so they just went
 13 ahead with their legislation and passed a bill that is
 14 absolutely beyond power because in the Victorian
 15 constitution at s.23 it states "oath of allegiance". It
 16 states: "No member either of a council or the assembly
 17 shall be permitted to sit or vote therein respectively
 18 until he has taken it ... (reads) ... in the second
 19 schedule".

FIRST

Victorian Constitution

s. 23

et warrk
discussing

↑

Almighty God

20 When you go to the second schedule, it says: "I
 21 swear by Almighty God that I will be faithful and bear true
 22 allegiance to Her Majesty Queen Elizabeth 11 as lawful
 23 sovereign of the United Kingdom and of this State of
 24 Victoria". They take that oath and then they go and show
 25 them the oath of allegiance out of the Legal Practice Act.
 26 That's a breach of allegiance. But not only is it breach
 27 of allegiance, it involved every politician in the
 28 Victorian Parliament on September 5, 2000. Not one of them
 29 stood up and said: "Under our schedule statutory binding
 30 oath we cannot do that in a secondary Act. It is
 31 impossible without us breaching our allegiance".

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1 Now, Your Honour, what I'm saying is, when they talk
2 about the grand jury being abolished, the real question is: *H*
3 was the parliament sitting in valid constitutional
4 authority at any purported amendment or new Act since
5 5 September 2000? And then on January 1, 2004 we met the *H*
6 West Australian component adding a dimension way beyond
7 comprehension ... Affidavits / Document. NO 3.

8 HIS HONOUR: All right. I have read what you say about the West
9 Australian parliament but I want to bring you back now to -
10 because you did say being a farmer sometimes you can wander
11 off the track. I'm telling you I think you have a little
12 now. Can we come back to this question of why the
13 affidavits which you - sorry, not the affidavits, why the
14 subpoenas which you want to issue are relevant to the
15 question that needs to be decided on 18 July, which is
16 whether there is a change in circumstances regarding
17 yourself which means that the vexatious litigant order
18 should no longer stay.

19 APPLICANT: Section 12 of the Commonwealth constitution states
20 that the governor of the state issues the writ for the
21 senators of the state.

22 HIS HONOUR: That doesn't seem to me to be addressing the
23 question I've just asked you.

24 APPLICANT: On 2001 there were five judges in the grand jury
25 application. Justice Winneke was one. He did not disclose
26 that his father did the 1975 Victorian Constitution Act.

27 There's a problem with that Act, but one of those - - -

28 HIS HONOUR: That seems to be debating not so much a change in
29 the circumstance relating to you, but a debate about
30 whether some of the various matters which you had asked
31 counsel to put before the court on that application are

Natalie Blok

1 correct or are not correct. That doesn't seem to me to
2 justify the subpoenas which you are - - -

3 APPLICANT: Your Honour, Natalie Blok supplied the affidavits
4 in relation to the attorney-general in their defence.

BLOK.

5 HIS HONOUR: Say that again.

6 APPLICANT: Natalie Blok from the Victorian Government
7 Solicitor's Office supplied the affidavits in relation to
8 "this is what Mr Shaw has done" etc. etc.

His Honour

9 It might be helpful - thanks for that because it is probably
10 useful for you to go through these subpoenas and tell me
11 who they are and what is the evidence that you suspect
12 these people will be able to give that will help on your
13 application on 18 July.

14 APPLICANT: Is that where you want to go?

15 HIS HONOUR: That's where I want to go because that's
16 really - - -

17 APPLICANT: No, I'm happy to go there.

18 HIS HONOUR - - - the question before me today.

19 APPLICANT: I'm happy to go there.

20 HIS HONOUR: That's why I am at pains to sort of say - - -

21 APPLICANT: Hopefully we have them on the same list.

22 HIS HONOUR: Well, I have certainly got Natalie Blok.

23 APPLICANT: Okay. Well, let's start with Robert Clarke.

24 HIS HONOUR: Yes, very well.

ROBERT CLARKE

25 APPLICANT: Is there any objection to having the accused in the
26 court?

27 HIS HONOUR: Don't ask me questions. Make submissions, please,
28 Mr Shaw.

29 APPLICANT: Your Honour, I make a statement that the accused
30 should be available for cross-examination.

31 HIS HONOUR: Okay. So that's the relevance of Mr Clarke.

1 APPLICANT: The next one is Peter Ryan.

Peter Ryan

2 HIS HONOUR: Just give me a moment to note these.

3 APPLICANT: Thank you.

4 HIS HONOUR: Yes, he's no.2 on my list as well.

5 APPLICANT: Mr Peter Ryan at this point of time - - -

6 HIS HONOUR: He's the member for Gippsland - he is not currently
7 the Minister for Police, is he, or is he? I don't know.

8 APPLICANT: At this point of time I actually had, through some
9 other people sitting in the court, a meeting with Peter
10 Ryan in Parliament House. The two documents he had in his
11 hand when we finished the meeting was the grand jury
12 application of Mr Robert Hulls and the grand jury
13 application for Julia Gillard. Peter Ryan was the police
14 minister at that time - - -

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Hulls & Gillard

15 HIS HONOUR: Which time are we speaking about?

16 APPLICANT: I would have to - - -

17 HIS HONOUR: Just roughly.

18 APPLICANT: Probably 2010, just prior to the state election.

19 HIS HONOUR: Very well.

20 APPLICANT: But Peter Ryan never ever revealed that problem in
21 the parliament, even though he had both documents in his
22 hand. At the time he was the police minister. What I'm
23 going to here is that under s.80 of the Criminal Code Act
24 1995, which is the session for security of the Commonwealth
25 dealing with treason, it actually states that you have to
26 inform a police constable. Well, we went a bit higher than
27 that and informed the police minister. That's the purpose
28 of his subpoena. The next one is - - -

29 HIS HONOUR: So you had the grand jury applications - - -

30 APPLICANT: For Mr Rob Hulls and Julia Gillard.

Grand Jury Applications

31 HIS HONOUR: But what is the relevance of him having those? Is

1 that because that was before the parliament revoked s.354?

2 Is that what you're saying? I don't understand.

3 APPLICANT: I'm actually saying, Your Honour, that the
4 parliament can't revoke s.354. § 354.

5 HIS HONOUR: I know you are saying that, but what is the
6 significance of him having those two applications?

7 APPLICANT: Well, now he has knowledge as the police minister
8 that these criminal charges are in position and pending
9 hearing.

10 HIS HONOUR: Yes. § 43.

11 APPLICANT: Now I think it is s.43 of the Crimes Act
12 (Commonwealth) states that where there is a delay in
13 prosecution, and it has been a number of years here, that's
14 a question of fact for a jury, just on what is the delay
15 here. So what they are actually saying is: Mr Shaw, you
16 are going to stay a vexatious litigant for ever because we
17 don't want these criminal charges revealed on our self. H
18 That's ludicrous.

19 HIS HONOUR: Okay; so that's Peter Ryan. NATALIE BLOK

20 APPLICANT: Now the next one is Natalie Blok and this one is
21 critical because this is the person who supplied the
22 affidavits.

23 HIS HONOUR: Just hang on. Natalie Blok, she works at the
24 Government Solicitor's Office, does she?

25 APPLICANT: And at that time she said that she had the care and
26 conduct of this matter. That was in front of Hansen J.

27 HIS HONOUR: Oh, yes. She swore the affidavit.

28 APPLICANT: Yes, and a number of them. Now in that affidavit
29 there was what you call - if Mr Shaw even objected to a
30 traffic ticket it was in there. Your Honour, I want to say
31 quite clearly that anything in relation to a traffic issue

1 should not have been in the vexation application because at
2 all times I'm only ever a defendant which means I didn't
3 initiate the proceedings, I only defended them. They
4 shouldn't have been in anything, and that includes the
5 police commissioner, Peter Ryan, the former police minister
6 being involved in the Victorian Road Civic Compliance
7 Agreement, et cetera, which - - -

8 HIS HONOUR: So you'd be calling Natalie Blok as a witness to
9 say - - -

10 APPLICANT: Well, she omitted material facts in that affidavit.

11 HIS HONOUR: So you'd be wanting her to give evidence about her
12 having omitted those facts.

13 APPLICANT: Correct.

14 HIS HONOUR: Yes. So who's next?

15 APPLICANT: The next one is Richard Lloyd. At the time Richard
16 Lloyd, he was helping me - I was a candidate in the
17 Victorian state election, a bi-election, the Altona
18 bi-election, but because I was a vexatious litigant it was
19 always a defamation label. But I was also a candidate in
20 the Commonwealth election against Julia Gillard, but at the
21 Altona bi-election Richard Lloyd submitted and went to
22 various government officers with - - -

23 HIS HONOUR: Has he got some official position or is he just a
24 friend of yours or what?

25 APPLICANT: He was helping me in that election and he did an
26 affidavit after it that's actually relevant to
27 cross-examination.

28 HIS HONOUR: Of who, of him?

29 APPLICANT: The whole process of what happened in that election.
30 Your Honour, what I'm actually saying is that because I'm a
31 nominated candidate and there are people within that

H

*AFFIDAVIT DOCUMENT
NO 56*

RICHARD LLOYD

ALTONA

1 structure who knew I was a vexatious litigant, they have
2 actually put it out there.

3 HIS HONOUR: They what?

4 APPLICANT: They put it out there to the media, which is in
5 actual fact defamation, because nobody checked the facts.

6 HIS HONOUR: Well, what's Richard Lloyd got to do with it,
7 though?

8 APPLICANT: Because he supplied a very valuable affidavit in
9 relevance to what occurred in that time and it's a
10 substantial affidavit.

11 Thank you for going through them individually. Who
12 have you got on the list next?

13 HIS HONOUR: The next one is Carmen Walter.

14 APPLICANT: Your Honour, Carmen Walter was the co-plaintiff with
15 me in the civil writ that was refused by Prothonotary
16 against Freemasonry Victoria in 2001. Now the reason why
17 we did that, Your Honour, was as simple as this. I was in
18 front of - - -

19 HIS HONOUR: What evidence is she going to give relevant to why
20 you shouldn't be a vexatious litigant any more?

21 APPLICANT: Well, Your Honour, this particular individual has
22 been involved in many court processes including the grand
23 jury application of 2001 and knows first-hand the judicial
24 concealment, so her evidence is in relation to what
25 happened to those grand jury applications of which Natalie
26 Blok completely concealed them, they were not in her
27 affidavits.

28 HIS HONOUR: Right. Now the next one on the list.

29 APPLICANT: Is Mary Noonan. Now Mary Noonan - and this comes
30 down to - Your Honour, if I probably wasn't a vexatious
31 litigant and probably if the Victorian Electoral Commission

CARMEN WALTER

*CARMEN WALTER.
AFFIDAVIT DOCUMENTS
NO 42 + 43*

H

H

MARY NOONAN

1 had have abided by the rules, I may even have been a
2 politician, which I don't want to be.

3 HIS HONOUR: So Mary Noonan is an official at the Victorian
4 Electoral Commission, is she? Is that her role.

5 APPLICANT: Correct. At the time she was. I'm not too sure if
6 she's still there, but I can find her. But I'll tell you
7 what the problem is with that - - -

8 HIS HONOUR: What evidence is she going to give?

9 APPLICANT: The 3 metres rule and 4 hundred metres rule.

*3 METRES
+
400 METRES*

10 HIS HONOUR: I beg your pardon?

11 APPLICANT: There's the 3 metres rule and the 400 metres rule.

12 HIS HONOUR: You've lost me.

13 APPLICANT: Okay. But that's why I become a nominated - to
14 learn the mechanics of what should be done here to get a
15 politician over there. Because I was a candidate in the
16 Altona bi-election, which meant there was 14 polling booths
17 - I think 11 of them was schools. Now when you read the
18 schools - when you become a candidate, you have to abide by
19 the rules of the Victorian Electoral Commission of the
20 3 metres rule and 400 metres rule. Because you are the
21 candidate, you have to make sure all your people abide with
22 that rule. Nobody abides with the rule, but it's in the
23 rule. Now the rule is that if you use the school ground,
24 the polling booth is the front gate, as in that is the
25 polling centre, it's not a building within the school. Now
26 in all of the schools they used in that bi-election, eleven
27 of them of the fourteen polling booths - - -

28 HIS HONOUR: How is this going to be relevant to the question of
29 whether you should remain a vexatious litigant?

30 APPLICANT: Mary Noonan and the Victorian Electoral Commission
31 concealed every indictable offence in relation to that

1 election. That's the relevance.

2 HIS HONOUR: Well, I think it's helpful if I get the summary of
3 the relevance rather than the detail of it, if you don't
4 mind.

5 APPLICANT: Okay. As I said to you, Your Honour, just cut me
6 short.

7 HIS HONOUR: No, that's all right. This process is working
8 well. Concealed every indictable offence relating to the
9 by-election. All right. Now the 7th person on the list is
10 Glenda Fraser also of the electoral commission; the same
11 point? *GLENDA FRASER* *No 56*

12 APPLICANT: Well, she's put me on a criminal charge, Your
13 Honour. *CRIMINAL CHARGE*

14 HIS HONOUR: Well, what has that got to do with whether or not
15 you should be a vexatious litigant?

16 APPLICANT: Well, Your Honour, if I know that there's a problem
17 in the election, should I contribute to the fraud? If I
18 don't vote in either a Commonwealth election or a state
19 election, I get a criminal charge and I have to face, and
20 in this case, the Kyneton Magistrates' Court on April 30
21 because of this lady's charge. She's charged me out of the
22 Victorian Electoral Commission which already knows from
23 Mary Noonan all the inherent problems in that election.
24 They have agreed to conceal it, but, in essence, issued a
25 criminal charge which is probably a false charge. That's
26 the relevance of her. *OLIVER CONNORS*

27 HIS HONOUR: Thank you. The next one, Oliver Connors. *No 18*

28 APPLICANT: Ollie Connors. He's actually a Christian pastor, an
29 elderly man now, but he was assisting at that Altona
30 bi-election so he understood what was wrong here, legally
31 wrong.

The Real Issue

1 HIS HONOUR: With the bi-election, with the way it was
2 conducted?

3 APPLICANT: Yeah. Now the relevance of this is, Your Honour,
4 that if that vexation label was not there, which gave them
5 a free ticket to sort of say "well, the guy's got to be a
6 fruitcake, why vote for him?" That's defamation, but if
7 the real issue is that the judicial and the political
8 system are concealing an attack upon the constitution, the
9 vexatious can't stick and it's cause of action. So Ollie
10 Connors or Oliver Connors is essential to what happened
11 during that state bi-election.

12 HIS HONOUR: All right.

13 APPLICANT: The other one is Shane Burke.

Shane BURKE

14 HIS HONOUR: Wyndham City Council; is that right?

15 APPLICANT: Yes. Now this goes back a couple of years - - -

16 HIS HONOUR: Can I just interrupt you for one moment, sorry,
17 Mr Shaw ...

18 (Discussion ensued in another matter.)

19 Sorry, Mr Shaw. So Shane Burke of Wyndham Council.

BURKE.

(Gillard)

20 APPLICANT: At one point Julia Gillard was holding a public
21 meeting in the RSL hall in Werribee to be nominated as a
22 candidate and I think it wasn't in the most recent one, it
23 was the one before, but I attended that meeting. It was
24 chaired by Shane Burke through the Werribee Council, but my
25 question when it got to the point of questions and answers,
26 I just stood up and I said to Julia Gillard, with Shane
27 Burke sitting beside her chairing it as the mayor of
28 Werribee "I am the person that charged you with a criminal
29 offence of treason. How long are you going to conceal this
30 from the electorate?" And Shane Burke did nothing with
31 that issue, even though he was the chairman of the meeting

1 and the mayor of Werribee.

2 HIS HONOUR: So you want him to come along and give evidence
3 about that?

4 APPLICANT: Correct.

HEATHER MARCUS

5 HIS HONOUR: The next on the list is Heather Marcus also of the
6 same council; is that the same issue?

7 APPLICANT: Now, Your Honour, I just want to say - and I won't
8 be bound to this figure, but something like \$3 to \$4
9 billion (and I didn't say millions, I said billion dollars,
10 and I will not be bound to that figure because I'd have to
11 check it with the Werribee Council itself) comes into
12 Werribee from federal funding. In actual fact the banker
13 of Werribee is Julia Gillard. So there's no way they want
14 to reveal that the lady is on a criminal charge.

15 HIS HONOUR: What's the relevance of Heather Marcus?

16 APPLICANT: Well, she's the current - actually the mayor of
17 Werribee.

18 HIS HONOUR: The current mayor.

19 APPLICANT: She was the mayor for a period of time after Shane
20 Burke. I think there's somebody else, but she's still a
21 counsellor in the Werribee Council. Now I reiterated the
22 question when there's three politicians - Heather Marcus
23 was one of them - who were at the Little River hall with
24 six other people from the Werribee shire - I reiterated
25 what happened in front of Shane Burke. Essentially they
26 just all hit the roof. They did not want to know about any
27 criminal charge on Julia Gillard. They concealed it. But
28 as the mayor of Werribee nobody knows in Werribee that
29 these charges are in position.

30 Your Honour, it looks like they're coming back - - -

31 HIS HONOUR: Sorry, Mr Shaw, I will just interrupt you briefly

Werribee
Mayor
Werribee
Council

1 while I deal with this matter.

2 (Another matter proceeded.)

3 HIS HONOUR: Yes, sorry to have interrupted you, Mr Shaw.

4 APPLICANT: No, no, that's fine.

5 HIS HONOUR: We're up to Heather Marcus and you had told me of
6 the meeting at Little River where the three politicians
7 including - - -

8 APPLICANT: Sorry, three members of the Werribee Council, three
9 councillors.

10 HIS HONOUR: Three members of the Werribee Council.

11 APPLICANT: Conducted that meeting.

12 HIS HONOUR: Didn't want to know about it, as you say, and were
13 concealing criminal charges. So does that bring us then to
14 the next person, who is Mark Wilkinson of the Baptist
15 Church.

MARK WILKINSON

NO -
44

16 APPLICANT: Yes.

17 HIS HONOUR: What is the evidence?

18 APPLICANT: There's a little what you call group of - this
19 particular man is a Christian minister in Werribee, but
20 there's probably 25 pastors in Werribee and they belong to
21 what they call the Wyndham Christian Fellowship. They meet
22 once a month. I don't know what they talk about, but at
23 this point Mark Wilkinson was the chairman of that and he
24 has first-hand knowledge that a number of his or the past
25 signatories within that group - I think it is five or six
26 pastors on probably two different occasions have been
27 subpoenaed into the Melbourne Magistrates' Court and
28 particularly on 15 December 2000 when there were 28
29 defendants before the court, one of which was Mr Robert
30 Hulls, the other was John Howard. Hulls + Howard.

31 HIS HONOUR: What evidence, though, is Mr Wilkinson going to be

MELB
MAGS
COURT
↓

2006

1 able to give relevant to whether you should continue as a
2 vexatious litigant?

3 APPLICANT: Well, the evidence is that as a Christian pastor did
4 he reveal to anyone in the Christian church in Werribee
5 that both John Howard and Julia Gillard were possibly
6 ineligible to be politicians.

7 HIS HONOUR: So that's Mark Wilkinson.

8 APPLICANT: The next one is Graham Laidlaw. No.1, he was the
9 former chairman. Graham Laidlaw (44)

10 HIS HONOUR: Of what?

11 APPLICANT: This Wyndham Christian Fellowship thing.

12 HIS HONOUR: So there is a group of these people, are there, in
13 the same category?

14 APPLICANT: Well, no, I think there's just the two of them.

15 HIS HONOUR: I see. WILKINSON FREEMASONRY

16 APPLICANT: Mark Wilson and Graham Laidlaw. But Graham Laidlaw
17 is a former Freemason so it takes a different arm because
18 in relation to the whole issue of Freemasonry he's quite
19 happy to be a witness in relation to the structure of
20 Freemasonry and particularly the oath and allegiance of
21 Freemasonry. So there's a two-fold initial thing there:
22 no.1, he was the former chairman of this group and he's
23 also a former Freemason. Glenys Jackson

24 HIS HONOUR: Right. No.13 then is Glenys Jackson.

25 APPLICANT: Glenys Jackson - she's quite a likeable lady and
26 probably a domestic lady with a couple of kids, but is
27 under heavy restraint from Ian Grey, the chief
28 magistrate - - - No 29 (Glenys Grey DEFENDANT)

29 HIS HONOUR: What is her role? She is at the Melbourne
30 Magistrates' Court. What does she do?

31 APPLICANT: I think she is just what you call a coordinator in

IAN GREY
JEFFERY No 27

WHELAN
No 24
25

MARLEY
No 28

1 the criminal division; so essentially if you want to file a
2 charge, a private prosecution charge, you have to go
3 through this lady.

4 HIS HONOUR: And so what evidence will she give?

5 APPLICANT: Of why the charges are being handed back. Always

6 signed off by Ian Grey. Now, Your Honour, on

7 15 December 2006, Ian Grey presiding, he said when I said:

8 "I'll be relying on s.44 of the Commonwealth constitution"

9 which instantly deprives him of jurisdiction because it is

10 a constitutional matter, his reply to that was "you will

11 not be relying on the constitution in my court". Now he

12 was charged the following week and is still a defendant

13 pending grand jury, and he is signing off the charges that

14 are being sent back to the people who are laying the

15 charges. If you can work that out to be judicial fairness,

16 you are a better man than me.

Kate Chamberlain

17 HIS HONOUR: All right. Kate Chamberlain is no.14.

18 APPLICANT: Kate Chamberlain is of the Commonwealth election

19 office in Werribee. Kate Chamberlain has absolute full

20 knowledge. Your Honour, this particular document - - -

21 HIS HONOUR: Full knowledge of what, though, bi-election - - -

22 APPLICANT: They were given this document. This is not a

23 bi-election, this is the Commonwealth election that put

24 Julia Gillard in to be the prime minister.

25 HIS HONOUR: So she's knowledgeable about breaches of something,

26 is she?

27 APPLICANT: She got this document, Your Honour.

28 HIS HONOUR: Yes. Don't tell me about what the document is.

29 What is she knowledgeable about?

30 APPLICANT: That Julia Gillard was ineligible and ticked the box

31 - there's a box which you tick in what you call form 60 of

Form 60

Copy

12

Brief of Evidence

No 23

S.44

1 the nomination form. One of the reasons why I nominated to
2 find the mechanics. But form 60 of the Australian
3 Electoral Commission form has a question in there and the
4 question in there is: are you disqualified under s.44 of
5 the Commonwealth constitution in nominating? Julia Gillard
6 ticked that she was not disqualified, i.e. concealed the
7 pending grand jury issue. Now I just want to say something
8 here, Your Honour, in how what you call the subterfuge
9 occurs. Anyone who is trained in law - - -

10 HIS HONOUR: I'm not so much interested in how it occurs, but,
11 rather, what is the evidence which you are going to call
12 from these people so I can determine whether the subpoenas
13 are relevant to - - -

14 APPLICANT: I'm happy with that.

15 HIS HONOUR: Are we finished with Kate Chamberlain?

16 APPLICANT: Yes.

17 HIS HONOUR: I mean it is not the occasion to run your argument
18 before me but just to tell me why you say they're relevant.

19 APPLICANT: No, no, I told you, Your Honour, you have licence to
20 confine me. *Rob Shand.*

21 HIS HONOUR: Yes. So Rob Shand, that's the next one on my list.

22 APPLICANT: The Court of Appeal. Now for the last I don't know
23 how long Rob has been there. What happens when you file
24 for or lodge, so it is filed/lodged grand jury
25 applications, somebody in that court is under orders not to
26 stamp the documents. So officers of the Court of Appeal -
27 Rob Shand and whoever else - are not stamping the documents
28 when they are actually lodged. So, in essence, no file is
29 created. But the only people who know that you have that *#*
30 file are the people who were standing there watching you
31 hand it in.

1 HIS HONOUR: So he's going to be called to confirm that grand
2 jury applications are not being filed.

*Not bring stamps
or records.*

3 APPLICANT: Correct.

4 HIS HONOUR: And Mr Wajkuk is it?

5 APPLICANT: We will just call him Michael Waj.

Michael Waj

6 HIS HONOUR: Yes.

7 APPLICANT: Now Michael Waj, because one of the affidavits filed
8 at the court here, Your Honour, is the Articles of
9 Association of the Commonwealth Bank. They are listed in
10 that primary affidavit.

*Articles of
Association
Bank*

NO 59

11 HIS HONOUR: Is he at the bank, is he, the Commonwealth Bank?

12 APPLICANT: No, he is a former bank manager.

13 HIS HONOUR: Former bank manager of?

14 APPLICANT: So he understands what you call bank fraud from
15 within the bank. Now there's a problem - and the reason
16 why I'm saying this is that the Articles of Association of
17 the Commonwealth Bank which were filed at ATSIK on 16 April
18 1991 are possibly legally defective which in actual fact
19 would mean - there's two branches there - no.1, that they
20 have filed illegal articles and no.2, that there's a legal
21 issue relative to who did the royal assent at that time.

22 HIS HONOUR: Who did what?

23 APPLICANT: Who did the royal assent in relation to the Act
24 which sold the bank. That on its own will fall back to the
25 Australia Act, but in relation to Michael Waj (and I just
26 say that in the abbreviation because we all have trouble
27 pronouncing that name) his is essentially in relation to
28 the affidavit in relation to the Articles of Association of
29 the Commonwealth Bank which is one of the 74 affidavits
30 filed.

*74
affidavits*

31 HIS HONOUR: So Elizabeth Beale of Herald and Weekly Times.

*Just
per,*

1 APPLICANT: The Herald and Weekly Times wrote an article on what
2 you call the vexatious litigants of Victoria. It was an
3 open page article. They put my name right beside Julian
4 Knight. Not one journo rang me to do that article and get
5 the actual facts so when I instructed my lawyer to issue a
6 notice for defamation, it was Elizabeth Beale who replied
7 to that notice; that's the purpose of her subpoena.

8 HIS HONOUR: Yes. That brings us to Duffy who is at the
9 Werribee Banner, or was. *EUGENE DUFFY*

EUGENE DUFFY

BRIEF of FENIGAN

10 APPLICANT: The same issue, Your Honour. They were all given
11 this particular document prior to the election, both in the
12 bi-election and in the Commonwealth election, because they
13 have an article or a magazine in Werribee, the Werribee
14 Banner. Now that's a critical issue here, Your Honour,
15 because if I'm a nominated candidate and I state that the
16 person who won the election is sitting illegally, there's a
17 process you must do which must be a petition through the
18 High Court and a portion of the petition when you actually
19 lodge the petition successfully is that that petition be
20 printed in the local paper, the paper of that particular
21 candidate, in this case Julia Gillard, Werribee, Werribee
22 Banner. They knew and their journos knew that there was a
23 problem in the qualification for Julia Gillard, but they
24 never put it in the Banner. He's the editor. *FIONA O'DOUBHARTY*

23

*High Court
PETITION*

No 11

25 HIS HONOUR: Yes. So that brings us to Fiona O'Leery, Leader
26 newspaper; is that the same issue? *O'DOUBHARTY*

27 APPLICANT: She made an excellent statement, Your Honour, when I
28 walked in there. The statement was: "Well, you're a
29 vexatious litigant so no one will even want to read about
30 you".

31 HIS HONOUR: She said that to you?

1 APPLICANT: Yes.

2 HIS HONOUR: And so you want to call evidence about that?

3 APPLICANT: Correct.

4 HIS HONOUR: Graham Daniels?

Graham DANIELS (Tim GARY)

5 APPLICANT: Graham Daniels is a South Australian who actually
6 filed a criminal charge on Julia Gillard for not taking the
7 oath that is actually in the constitution as a statutory
8 requirement.

Glenn Jackson

9 HIS HONOUR: So you want him to give evidence about that?

10 APPLICANT: Correct.

Lawrence Carver

11 HIS HONOUR: And finally Lawrence Carver, Victoria Police.

12 APPLICANT: There's a situation there that occurred in the
13 Werribee court where Lawrence Carver and another police
14 officer - I think his name was Noble - both got in the
15 witness box, but the magistrate was completely bound to
16 conceal anything in relation to what was occurring in that
17 witness box. What I handed him up in the witness box was
18 Julia Gillard's charge and summons. Now because they
19 completely wanted to conceal the matter from the bar in the
20 Magistrates' Court at Werribee, I placed them under arrest,
21 including the magistrate, which you are legally allowed to
22 do but it is generally not done. And that appeal from that
23 matter went to the County Court.

Noble

Amelia Sobell

County Court (Hannah)

24 HIS HONOUR: The appeal of you putting them under arrest or

25 - - -

26 APPLICANT: Well, the appeal from the actual matter that was
27 before the magistrate went to the County Court and both
28 appeared in the witness box at that court hearing.

29 HIS HONOUR: In the County Court?

30 APPLICANT: Yeah. From memory it was in front of Justice
31 Hannah.

1 HIS HONOUR: Hanlon.

2 APPLICANT: Hannah (HANNAH).

3 HIS HONOUR: And you want them to give evidence about what was
4 handed to them in the witness box.

5 APPLICANT: Agree; and I haven't subpoenaed the other one which
6 is Constable Noble - I think it is Sergeant Noble. So
7 there was two of them. In this case I've only subpoenaed
8 Lawrence Carver because he's the Werribee police officer.

9 Now I'm saying that quite specifically because the offence
10 of treason sits under s.80 of the Criminal Code act 1985
11 and under that the statutory requirement is to inform a
12 police constable. Now they were doing nothing about it,

13 but, Your Honour, there's probably a couple of others that
14 I could have added to that list.

15 HIS HONOUR: Well, I'm only dealing with what you have got, not
16 the hypothetical others.

17 APPLICANT: That's fair.

18 HIS HONOUR: What I want to know - you have now told me what the
19 evidence is that you want to call from these people so I've
20 got an idea of that. Do you have anything to say about the
21 proper test which I should apply in determining whether or
22 not to allow you leave to issue these subpoenas? I have
23 set out to you what appears to be the law in relation to
24 what is relevant on 18 July when your case comes before the
25 court and you need to connect the evidence which you want
26 to call from these people to an issue that is relevant on
27 that day and you've told me why you say they are relevant.
28 Do you have anything else you want to say about the
29 appropriate legal test that I need to apply in determining
30 whether I should give you leave to issue these subpoenas?

31 APPLICANT: Well, there's another test you need to look at, Your

EBNACHENA
CLIMATE

1 Honour. The other test is a judge's bias and the issue is
2 in that test which comes out of Ebnachena (?) High Court,
3 apprehension of bias, that test is - and now it's in
4 relation to a test to the bench: / does a fair-minded lay
5 observer sitting in the body of the court apprehend that
6 the bench may be sitting in bias? / *The Test.*

MAXWELL

s.34

7 Now, Your Honour, as I have pointed out to the
8 president of the Court of Appeal, you are actually not
9 sitting in bias, you are sitting in criminal activity. And
10 he asked me to expand upon that point. The point is that
11 section 34 of the Crimes Act (Commonwealth) the point is -
12 and as I said to him on the day - any time you read a paper
13 on bias or apprehension of bias, it always leaves out s.34
14 of the Crimes Act. Now s.34 of the Crimes Act lifts it
15 from bias to apprehension of bias into a criminal offence
16 and I mentioned it before earlier, but it states: a judge
17 or magistrate exercising federal jurisdiction ...

18 HIS HONOUR: I'm not quite sure you're - I might be
19 misunderstanding ...

20 APPLICANT: Your Honour, I'm absolutely correct on that. I've
21 checked it.

22 HIS HONOUR: No, no, no, I'm ~~not~~ *The Test.* doubting you on that, but my
23 question was: the test for me in determining whether I
24 should give you leave to issue the subpoenas really
25 revolves around whether the evidence which these people can
26 give is actually relevant to the hearing that is going to
27 take place on 18 July. Now is there anything you want to
28 say to me about what is the appropriate test I should apply
29 in determining whether or not to give you leave to issue
30 the subpoenas in light of what I've said? The question
31 about judicial bias or apprehension of bias doesn't seem to

1 me to be relevant to the test I need to apply today.

2 APPLICANT: It is exceptionally relevant, Your Honour, because
3 s.316 of the Victorian Crimes Act, the taking and
4 administering of an unlawful oath - that's subsection
5 whatever, I think it's sub-s.2, but you'll find that the
6 words given "not to reveal or discover"; so, in essence,
7 what I have been doing - - -

8 HIS HONOUR: This was 316.

9 APPLICANT: If you give me a minute, I could find that section.

10 HIS HONOUR: I have the Crimes Act here.

11 APPLICANT: And you'll find it at s.316.

12 HIS HONOUR: "Unlawful oaths to commit treason, murder, et
13 cetera."

14 APPLICANT: Well, that's the sub-heading, Your Honour.

15 HIS HONOUR: Yes.

16 APPLICANT: But there is a subsection in that section that
17 actually states "not to reveal or discover" and it covers a
18 number of issues. One is an illegal oath or something
19 about to be done.

20 HIS HONOUR: I see. "Every person who administers or is present
21 at and consents to the administering of any oath or
22 engagement in the nature of an oath purporting to bind the
23 person who takes it to act in any of the following ways:
24 not to reveal or discover any unlawful association, society
25 or confederacy ... shall be guilty of an indictable
26 offence."

27 APPLICANT: Could you read that whole section because that's
28 that section?

29 HIS HONOUR: Yes; "not to reveal or discover any unlawful
30 association, society or confederacy or any illegal act done
31 or to be done or any illegal oath or engagement that may

6

1 have been administered or tended to be taken by himself or
2 any other person or the import of any such oath or
3 engagement"; yes, I have got that. So that is
4 s.316(2)(a)(vii).

AA

5 APPLICANT: Correct. I rely entirely upon that section, but
6 what I'm actually saying is - I'm only abiding by that law.
7 When you look at the last three oaths that the prime
8 ministers have taken, John Howard stated this: "I, John
9 Wilson Howard, do swear that I will well and truly serve
10 the people of Australia in the office of PM and that I will
11 be faithful and bear true allegiance to Her Majesty Queen
12 Elizabeth 11, so help me God". He swore that which is what
13 you could say is probably the oath that is in the
14 constitution, but he swore that after the Crown had been
15 removed from West Australia so he couldn't even be validly
16 sitting in parliament. It is an illegal act.

3 Prime
MINISTERS
OATHS

17 HIS HONOUR: You have got that set out at p.61. → Submissions.

18 APPLICANT: Yes, but, Your Honour, you just read the section.
19 It makes it a 7-year gaol penalty.

20 HIS HONOUR: So the question I'm asking you is not on whether
21 these people have done the right thing or the wrong thing,
22 but, rather, about whether the evidence that you want to
23 bring forward on 18 July is relevant.

24 APPLICANT: Your Honour, let me cut to the chase. What I'm
25 actually saying is - you're asking me to sit in front of a
26 single judge of the Supreme Court, to seek leave on July 18
27 to file a writ.

28 HIS HONOUR: No, I'm not.

29 APPLICANT: Yes, you are.

30 HIS HONOUR: I'm asking you to tell me - - -

31 APPLICANT: But, Your Honour, that's the structure. What

1 they're actually saying is you're going to need leave
2 on July 18. Then they'll say, "Okay, we may be looking at
3 giving you leave or not giving you leave - - -

4 HIS HONOUR: I'm sorry, I don't understand. On July 18 - - -

5 APPLICANT: That's the date set down for the actual hearing.

6 HIS HONOUR: The hearing of your application to set aside the
7 vexatious litigant label.

8 APPLICANT: No, Your Honour, what they're doing is confining me
9 to seeking - - - LEAVE

10 HIS HONOUR: Oh, I see, yes.

11 APPLICANT: Now what I'm saying is, if they said, "Well, leave
12 is granted, call your witnesses", I haven't got any because
13 there was a whole process prior to make sure I was sitting
14 in front of a single judge - no jury, no witnesses. #

15 HIS HONOUR: So you're saying these subpoenas are not so much
16 relevant to your application for leave, but, rather, if you
17 are granted leave, then to call the evidence thereafter.

18 APPLICANT: No, Your Honour, no. It is exceptionally relevant
19 to leave because they could simply say, well, leave is
20 refused, and I have no witnesses anyhow so I didn't have a
21 hearing. But what they are going to do to me on July 18 is
22 forget the writ, they don't want to answer the writ in its
23 totality or summons, they want to confine it to you're
24 going to need leave first. So if I have leave, if I have
25 to put forward something that is to get leave, I'm actually
26 talking to a single judge who is possibly the offender, #
27 because that's how serious this matter is. No judicial
28 officer sitting in the State of Victoria can be in
29 constitutional validity with all these things fractured
30 like this. So you are asking me - and it is unheard of in
31 court - that a person has to face the offender sitting on #

1 the bench. It's unbelievable. If I'm not permitted to
2 have a jury trial - - -

WANT TRIAL

3 HIS HONOUR: No. So what test are you saying I need to apply as
4 to whether or not you should be given leave to issue the
5 subpoenas?

'FAIRNESS'

6 APPLICANT: Fairness.

7 HIS HONOUR: All right. That pretty much goes without saying,
8 but - - -

9 APPLICANT: Well, that's all I'm seeking.

10 HIS HONOUR: Is there anything else that you want to say about
11 the legal test?

12 APPLICANT: Your Honour, what I'm actually saying is - you read
13 it, s.316 of the Crimes Act. Seven years' gaol. Illegal
14 act. The illegal act is within these acts. This Act that
15 Rob Hulls introduced into the Victorian Parliament to take
16 the oath of allegiance from the Legal Practice Act. Now
17 the reason why they did that - - -

Hulls

#

18 HIS HONOUR: You've told me about that and I think I have
19 grasped your point about the Courts and Tribunals Act and
20 the schedule 2 and the removal of the oath of allegiance
21 and what you say flows from that. I have heard that. I
22 understand it. All I need to know, is there anything else
23 you want to say about your entitlement to issue the
24 subpoenas for the purposes of 18 July hearing because I
25 think I have heard your arguments about that.

No 2

26 APPLICANT: Yeah, but there's a bigger one. The current
27 Governor of Victoria is Alex Chernov appointed by,
28 purportedly, the executive council.

Affidavit Document No 34

29 HIS HONOUR: But does this go to the subpoenas that you have
30 issued?

31 APPLICANT: Well, it will come out in relation to particularly

CHERNOV

1 Carmen Walter because when we were before the five judges
2 in 2001, one of those judges was Alex Chernov. He was
3 charged - - -

4 HIS HONOUR: Well, you don't need to call Carmen Walter to prove
5 that because that's apparent from the Law Report.

6 APPLICANT: No, you're not, Your Honour. What they're doing is
7 saying - and that's why he is the current Governor - one of
8 the others that I charged was Paul Coghlan. Now he's not a
9 defendant pending grand jury, he went on to become the
10 Director of Public Prosecutions, he's today a Supreme Court
11 judge, so excuse the expression, but that's mates' rates.
12 It doesn't happen down in the Magistrates' Court where a
13 defendant becomes a magistrate or a judge, that's
14 ludicrous, but when - it gets worse because the other one
15 is Damian Bugg, the Commonwealth Director of Public
16 Prosecutions, probably charged on four different occasions.
17 Prior to being the Commonwealth DPP, he was the Tasmanian
18 DPP at the Port Arthur massacre so I don't know what that
19 would uncover. But there's so much what you call judicial
20 - we'll forget the word "bias", it is criminal activity
21 that is occurring here. Oaths have been breached,
22 constitutions have been suspended, and people are going to
23 elect for a polling booth with no idea the Crown has gone,
24 none.

25 HIS HONOUR: I think you are straying again, if I may say so,
26 away from the - - -

27 APPLICANT: No, I'm not, Your Honour, because what you're
28 actually asking me to do is sit in front of a single judge,
29 no witnesses, no jury.

30 HIS HONOUR: I haven't determined your application yet,
31 but - - -

Numbered
66. 67.
68.

Affidavit
No
39.

COGHLAN

HR 13

Bugs

TASMANIA

*

1 APPLICANT: Yeah, but that's where - because they're not here,
2 Your Honour, so I go back to my first point. You become
3 their legal representative, so the impartiality, it should
4 have been over in the first instance where I just simply
5 said they didn't show up, summary judgment.

6 HIS HONOUR: All right. Do you have any other points before I
7 adjourn the court to reserve my decision.

8 APPLICANT: That's before lunch or after lunch?

9 HIS HONOUR: It may not be today.

10 APPLICANT: I see. Your Honour, could I just go through the
11 documents. Well, this actual fact - - -

12 HIS HONOUR: No.

13 APPLICANT: No, I'm not going to go through the documents, I
14 just want to brief. Do you know what documents have been
15 filed under this issue?

16 HIS HONOUR: No, I don't think I need to hear you asking me
17 about what documents are on the file. I'm confiding you
18 quite strictly to arguments directed towards whether you
19 should have leave to issue the subpoena. I have heard all
20 of the arguments on which the witnesses' evidence is
21 relevant. I have heard your arguments about the test that
22 I should apply. I'm minded now to say I think I've heard
23 all that I need to hear. I will give you an opportunity to
24 say one last thing, Mr Shaw, because this matter has gone
25 on for a little while now and I think that I've heard
26 substantially what I - - -

27 APPLICANT: Well, that's okay, Your Honour. I'll make two
28 further points. No.1, does it involve a constitutional
29 issue?

30 HIS HONOUR: Does not or does it?

31 APPLICANT: Does it?

1 HIS HONOUR: You are asking the rhetorical question. *The Queen*

2 APPLICANT: Well, I'll actually state. Because the Queen is in
3 25 sections of the Commonwealth constitution and she was
4 thrown out by the oath of allegiance, it involves 25
5 sections of the Commonwealth constitution, let alone the
6 Victorian constitution. It is a constitutional issue.

7 Before you make any decision, Your Honour, it requires
8 78Bs, but the second point is it is actually an inter se
9 issue. Now I'm not too sure if you are conversant with the
10 inter se issues, but Brian Gleeson purportedly wrote a
11 paper on the death of s.74 of the Commonwealth
12 constitution. Now s.74 of the Commonwealth constitution in
13 relation to his paper states that no appeal shall be
14 permitted to the Queen and council from a decision of the
15 High Court upon any question howsoever arising as to the
16 limits inter se of the constitutional powers of the
17 Commonwealth and those of the state or states.

18 The issue of the removal of the oath of allegiance
19 from the Legal Practice Act in Victoria in contradiction to
20 legislative capacities of the Commonwealth parliament is
21 inter se, but because it comes up, Your Honour, all the
22 citations state that the moment the challenge comes from
23 the bar table in relation to inter se, the court is
24 deprived of jurisdiction because at that time inter se
25 falls back under s.22 and s.23 of the Judiciary Act 1900
26 and only three High Court judges - there has to be a
27 minimum of three High Court judges can determine in the
28 first blush of it if it is inter se because first off it
29 has got to be raised from the bar table or it's not put on
30 the bench, but once it is raised from the bar table it's
31 not for me or for you to determine if it is. It falls then

25 Sections

INTER SE

*MURRAY
GLEESON*

*AFFIDAVIT
DOCUMENT
NO 14*

*AFFIDAVIT
DOCUMENT
NO 15*

*High Court
Judges
Charles
Sumner*

D

1 under s.22 and s.23 of the Judiciary Act. Now what I'm
2 saying as what you call an untrained legal person is that
3 there is a clear conflict of power in relation to the
4 removal of an oath, of a secondary oath to the statutory
5 requirement of the Commonwealth's constitution, and
6 essentially what the - I don't know if you are privy to
7 that document, Your Honour, it's one of the documents filed
8 in those 74. It has this front page, what is an inter se
9 question. If you want this one, I can hand you this one,
10 Your Honour.

11 HIS HONOUR: No, I don't think I will require that, thank you.

12 APPLICANT: But it will be in that group of 74 that you will
13 find in that principal affidavit. It starts with "What is
14 an inter se question?" And then it goes through the
15 various Victorian citations, et cetera. There's a couple
16 that are relevant and I won't read them out, I'll give the
17 citations just for reference, but it states in Pirrie v
18 McFarlane (1925) 36 CLR 170, that's one citation, I won't
19 go into the quotes there. But the next one is Flint v Webb
20 (1907) 4 CLR 1178.

21 HIS HONOUR: Mr Shaw, you have got five minutes.

22 APPLICANT: Yeah, I'm only going to give you the last citation
23 and I'm finished.

24 HIS HONOUR: I'm giving you five minutes to finish your
25 submissions so whatever you want to say that is important.

26 APPLICANT: I am only going to give you the last citation and
27 then I rest.

28 HIS HONOUR: Fine, thank you.

29 APPLICANT: It is the Commonwealth of Australia v. Kreglinger
30 [1926] V.L.R. 310.

31 Your Honour, thank you.

NO
14

//

1 HIS HONOUR: Thank you, Mr Shaw. I will reserve my decision.

2 My associate will let you know when I am going to hand it
3 down.

4 APPLICANT: Your Honour, could I make it that I have at least
5 two weeks' notice?

6 HIS HONOUR: Two weeks' notice?

7 APPLICANT: Well, I was in the Court of Appeal last Friday on a
8 letter that went to a post office two days before and the
9 only way I knew that I was actually in the Court of Appeal
10 was that a friend of mine rang me at 9.30 the night before
11 after looking at the Supreme Court website and said,
12 "You're listed in the Court of Appeal". Two weeks' notice
13 is - it should have been a registered letter - it should
14 have been totally different because when I first come into
15 this court in this matter, Justice Cavanough said:
16 "Mr Shaw, I need an affidavit of service that you have
17 actually served the other side". Well, I'm in the Court of
18 Appeal without anything.

19 HIS HONOUR: You've just got a post office box address, have
20 you?

21 APPLICANT: Correct, Your Honour, but I don't need to be - that
22 going there on Wednesday - to be told I'm in the court on
23 Friday.

24 HIS HONOUR: Well, I'll simply - - -

25 APPLICANT: Even if it is 7 days' notice. 7 days' notice, it's
26 better than none at all.

27 HIS HONOUR: Well, I'm not sure that I can promise you that,
28 Mr Shaw. I'm in the Practice Court next week and then
29 probably in another - - -

30 APPLICANT: Your Honour, my mobile phone is listed on that form.

31 HIS HONOUR: Oh, is it?

1 APPLICANT: Yes.

2 HIS HONOUR: Well, can you make sure you give it to my
3 associate.

4 APPLICANT: Correct.

5 HIS HONOUR: So that we have a ready way of contacting you.

6 APPLICANT: I just don't want to be - you giving a thing and
7 sort of "where is he?"

8 HIS HONOUR: No, that's perfectly all right. Very well. Well,
9 if you leave your mobile number with my associate to make
10 sure we are able to contact you, that would be very
11 helpful.

12 APPLICANT: Thank you.

13 HIS HONOUR: Otherwise, adjourn the court, please.

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