IN THE SUPREME COURT OF VICTORIA

FULL COURT; CRIMINAL JURISDICTION No: of 2004

IN THE MATTER of the Crimes Act 1958

And

IN THE MATTER of an Application by

Brian William Shaw

APPLICATION

TAKE NOTICE that the Full Court of the Supreme Court will be moved on the Day of 2004 at am by the Applicant for the following Orders pursuant to Section 354 of the Crimes Act 1958, the Applicant have disclosed

Indictable offence/offences against:

Mr. Charles Wheeler

Master of the Supreme Court of Victoria

And that a Court has declined or refused to commit the alleged offender, namely: Mr. Charles Wheeler

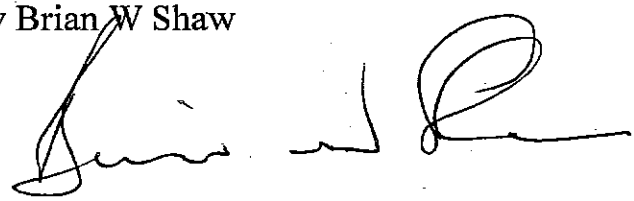
1. The Sheriff is ordered to summons a Grand Jury to appear at a Court to be holden at a time and place determined by the Court in

accordance with the provision of Section 354 of the Crimes Act 1958 (Vic) to attend at such Court at that time and place to inquire present do and execute all things which on the part of the Queen shall then and there be commanded of them.

2. Such further or other orders that may be just and necessary.

DATED The 19th day of March, 2004

This Application is filed by Brian W Shaw



AFFIDAVIT

I, Brian, William Shaw of 280 Leakes Road, Truganina, 3030 in the State of Victoria do state and affirm the following:

**1.** THAT, the Application to this Honourable Court is lodged on the legal basis that the Oaths of Freemasonry are unlawful oaths contrary *inter alia* to section 316 of the *Crimes Act* 1958, Victoria, and as such constitute an indictable offence.

**2.** Masonic Oaths, Blue Lodge

FREEMASONRY takes two directions. The first three degrees are termed the Blue Lodge; inclusive of the Entered Apprentice oath degree, the Fellow craft oath and degree, the Master Masons oath and degree, after which it branches into two specific arms termed the York Rite and Scottish Rite inclusive of Shiners, 32nd degree, Knights of Malta and Knights Templars.

a. MASONIC OATH – ENTERED APPRENTICE

*In the presence of the great architect of the universe, and of this worthy, worshipful and warranted lodge of free and accepted masons, regularly assembled properly dedicated of my own free will and accord do hereby (v m touches candidates right hand with his left hand and hereon (v m touches The Bible with his left hand) sincerely and solemnly promise and swear that I will always hele, conceal and never reveal.*



RODNEY STYLE
Justice of the Peace
WA 9146

*These secret points I solemnly swear to observe, without evasion, equivocation, or mental reservation of any kind, under no less a penalty, on the violation of any of them, than that of having my throat cut across, my tongue torn out by the root, and buried in the sand of the sea at low water mark, or a cable's length from the shore, where the tide regularly ebbs and flows twice in twenty four hours or...*

*What you have repeated may be considered but a serious promise; as a pledge of your fidelity and to render it a solemn obligation, you will seal it with your lips on the volume of the sacred law. (The Bible)*

b. MASONIC OATH - FELLOWCRAFT

*In the presence of the grand geometrician of the universe, and of this worthy and worshipful lodge of fellow craft Freemasons, regularly held, assembled, and properly dedicated, of my own free will and accord do hereby (the worshipful master touches candidate's right hand with his left). And hereon (Worshipful Master touches The Bible with his left hand) solemnly promise and swear that I will always hele, conceal and never improperly reveal, any or either of the secrets or mysteries of or belonging to the second degree in Freemasonry.....*

*These several points I solemnly swear to observe, without evasion, equivocation, or mental reservation of any kind, under no less a penalty, on the violation of any of them, than that of*



RODNEY STYLE
Justice of the Peace
WA 9146

*having my left breast laid open, my heart torn there from, and given to the ravenous birds of the air, or devouring beasts of the field as a prey, so help me almighty god, and keep me steadfast in this my solemn obligation of a Fellow Craft Freemason.*

*Worshipful Master.....As a pledge of your fidelity, and to render this a solemn obligation which might otherwise be considered a serious promise, you will seal it with your lips twice on the volume of the sacred law (The Bible)*

c. MASONIC OATH – MASTER MASON

*I....in the presence of the most high, and of this worthy and worshipful lodge of master masons, duly constituted, regularly assembled, and properly dedicated, of my own free will and accord, do hereby (Worshipful Master touches candidate's hands with his left hand) and hereon (Worshipful Master touches The Bible with his left hand) most solemnly promise and swear that I will always hele, conceal, and never reveal any or either of the secrets or mysteries of or belonging to the degree of a Master Mason to anyone in the world.....*

*All these points I solemnly swear to observe, without evasion, equivocation, or mental reservation of any kind, under no less a penalty, on the violation of any of them, than that of being severed in two, my bowels burned to ashes, and those ashes scattered over the face of the earth and wafted by the four*



RODNEY STYLE
Justice of the Peace
WA 9146

*cardinal winds of heaven, that no trace or remembrance of so vile a wretch may no longer be found among men, particularly master masons so help me the most high, and keep me steadfast in this my solemn obligation of a master mason.*

*Worshipful Master.....as a pledge of your fidelity and to render this binding as a solemn obligation for so long as you shall live, you will seal it with your lips thrice on the volume of the sacred law (The Bible)*

**3.** On 28 February 2002 indictable information was given to Detective Senior Sergeant M. Gilenane 17952, Criminal Investigation unit, Ballarat Police Department, Victoria concerning Master Wheeler, Master of the Supreme Court of Victoria. Master Wheeler is a high ranked Freemason who has taken a judicial oath and as such is bound by law to obey and administer the laws of the State of Victoria, whereas in the capacity of a Freemason, Master Wheeler has breached section 51 and 151 of the *Evidence Act* 1958 and the following sections of the *Crimes Act* 1958 in the State of Victoria:
3A., 6B.(2)(a), 6B.(4), 181, 182, 184, 314, 315, 316, 321, 321A.(2), 321B., 321M., 321O., 325, 325(6), 326(1), 363 and section 371.

**4.** THAT, it is noted and stated that it is legally impossible to take a judicial oath to administer and uphold law within the State of Victoria and to take and administer Masonic oaths swearing allegiance to Freemasonry above all other allegiances. This is in total breach of the



RODNEY STYLE
Justice of the Peace
WA 9146

law stated herein but not limited to this Affidavit. All breaches are indictable pursuant to State law. Masonic Oaths contradict Truth

a. *I swear to tell the truth the whole truth*

b. *I will always* ***hele, conceal, and never reveal***

**5.** Freemasonry and their unlawful Masonic oaths open up a chain of indictable offences contrary to the *Crimes Act* 1958, Act No 6231/1958, in particular in breach of Sections 316, 314, 315, 321, 321A.(2), 321B., 321M., 321O., 323, 325, 3A., 6B.(2)(a), 6B(4), 371, 181, 182, 184, 325(6), 326(1) and section 363. Pursuant to the *Crimes Act* 1958 all breaches of such Act are indictable.

**6.** Crimes Act 1958, Section 422.

Procedure where facts proved on trial disclose more serious offence

(1) Where on the trial of a person for an indictable offence it appears that the facts in evidence amount in law to another indictable offence carrying a heavier penalty, he shall not for that reason be entitled to be acquitted of the offence charged and subject to sub-section (3), shall not be liable to be prosecuted afterwards for the other offence.

(2) Where on trial of a person on indictment or presentment for attempting to commit an offence or assault or other act preliminary to an offence it appears that the facts in evidence amount in law to the complete offence, the person shall not for that



RODNEY STYLE
Justice of the Peace
WA 3145

reason be entitled to be acquitted of the offence charged and subject to sub-section (3), shall not be liable to be prosecuted afterwards for the completed offence.

(3) Notwithstanding sub- section (1) and (2), in a case to which either of those sub-section applies the trial judge may if he thinks fit in his discretion discharge the jury from giving any verdict and direct the person to be presented for the other indictable offence or the completed offence, as the case may be.

**7.** Treason constitutes a breach contrary to the *Crimes Act* 1958 and can briefly be defined as a '*breach of allegiance*'.

**8.** The legal action is taken by right of access to the courts revealing indictable offences against the *Crimes Act* 1958, Victoria, Section 316 and other named sections. The *Crimes Act* 1958, Victoria, is current Statute Law in the State of Victoria by virtue of the *Constitution Act* 1855 purportedly overridden by the *Victorian Constitution Act* 1975. Such *Victorian Constitution* is bound to the *Commonwealth Constitution* by section106 of the *Commonwealth Constitution.* The *Commonwealth Constitution* itself is bound to the Crown in England, in particular covering clause 5, *Commonwealth Constitution* and the *Judiciary Act* 1903 (CTH).



RODNEY STYLE
Justice of the Peace
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**9.** CRIMES ACT VICTORIA 1958: SECTION 316 (2)(a) (vii)

*"Not to reveal or discover any UNLAWFUL ASSOCIATION, SOCIETY OR CONFEDERACY or ANY ILLEGAL ACT done or to be done or ANY ILLEGAL OATH or ENGAGEMENT that may have been administered or tendered to or taken by himself or any other person or the import of any SUCH OATH or ENGAGEMENT.*

**10.** THAT, the charges laid against Mr Charles Wheeler are laid out in detail in the charge sheet in various sections, but, essentially they form three specific charges:

(i) The taking and administering of unlawful oaths

(ii) Attempting to pervert the course of justice.

(iii) Conspiracy to pervert the course of justice

**11.** THAT, Section 151 of the Evidence Act 1958 State of Victoria, states:

"The taking of any *extra-judicial oath* that does not have jurisdiction or cognisance by or under some "Act" or "ordinance in force" *shall be unlawful.* Every Masonic member who has taken a judicial oath within the State of Victoria is in breach of this Section of the Evidence Act 1958, Victoria.

**12.** EVIDENCE ACT 1958 SECTION 51:

**Abolition of extra-judicial oaths:**

*"It shall not be lawful for any person to administer or cause or allow to be received any oath or affidavit touching any matter or thing*



RODNEY STYLE
Justice of the Peace
WA 9146

*whereof such person hath not jurisdiction or cognisance by or under some "ACT" or "ordinance in force."* (Portion of Section)

***"It shall not be lawful"***

**13.** CRIMES ACT 1914 SECTION 34(1)(b)

*"Being a Judge or Magistrate, willfully and perversely exercises Federal jurisdiction in any matter in which he has personal interest,"*

Shall be guilty of an offence.Penalty: Imprisonment for 2 years.

**14.** CRIMES ACT 1914 SECTION 44

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

*Shall be guilty of an offence* Penalty: Imprisonment for 3 years.

**15.** CRIMES ACT 1914 SECTION 43.

*"Any person who attempts, in any way not specifically 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.



RODNEY STYLE
Justice of the Peace

**16.** CRIMES ACT 1914 SECTION 42

*"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.

**17.** CRIMES ACT 1958, VICTORIA SECTION 322E

*"Nothing in this Part shall be taken to affect directly or indirectly any matter of Law of practice applicable to treason or misprison of treason."*

**18.** CRIMES ACT 1958 VICTORIA SECTION 321M

*"A person who attempts to commit an indictable offence is guilty of the indictable offence of attempting to commit that offence."*

**19.** CRIMES ACT 1958 VICTORIA SECTION 325

*(1) "Where a person (in this Section called, "the principal offender") has committed a serious indictable offence, (in this Section called, "the principal offence") any other person who, knowing or believing the principal offender to be guilty of the principal offence or some other serious indictable offence without lawful authority, or reasonable excuse does any act with the purpose of impeding the apprehension, prosecution, conviction or punishment*



RODNEY STYLE
Justice of the Peace
WA9146

*of the principal offender shall be guilty of an indictable offence."*

**20.** CRIMES ACT 1958, VICTORIA SECTION 326

(1) *"Where a person has committed a serious indictable offence, any other person who, knowing or believing that the offence, or some other serious indictable offence has been committed and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts any benefit for not disclosing that information, shall be guilty of a summary offence and liable to level 8 imprisonment.*
Penalty: 1 year maximum)

(3) *"For the purpose of this section a person shall be deemed to accept a benefit if he accepts or agrees to accept any benefit or advantage, or the promise of any benefit or advantage, either to himself or to another, whether or not the benefit or advantage is in money or money's worth.*

(4) *"A person convicted of an offence against sub-section (1) shall be liable:*

*(a) If the principle offence is one for which the penalty is Level 1 imprisonment (life) to Level 3 imprisonment (20 years maximum)*

**21.** CRIMES ACT 1958, VICTORIA SECTION 323

*"A person who aids, abets, counsels or procures the commission of an indictable offence may be tried, indicted or present and punished as a principal offender.*



RODNEY STYLE
Justice of the Peace
WA 6148

**22.** COMMONWEALTH CONSTITUTION ACT - SECT 5

*This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth*

**23.** COMMONWEALTH CONSTITUTION ACT - SECT 44
Any person who:

(i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or

(ii) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

**24.** Scottish Rite 33rd Degree Oath and Ritual (Portion)

*"When it was time for the final obligation we all stood and repeated the oath with the representative candidate, administered by the Sovereign Grand Inspector General. We then swore true allegiance to the Supreme Council of the 33rd Degree above all other allegiances and swore never to recognize any other brother as being a member of the Scottish Rite of Freemasonry unless he also recognizes the supreme authority of this Supreme Council."*
(Extract from the book, "The Deadly Deception" Pg 104, co-authored by Jim Shaw and Tom McKenney describing portion of the ritual and



RODNEY STYLE
Justice of the Peace

oath of allegiance required by members attaining the 33rd Degree of Freemasonry in the Scottish Rite of Freemasonry in the United States of America.)

**25.** BYRNE and ARMSTRONG VLR. Vol xxv, 126, 1899.

"An application for a Grand Jury under Sec 389 of the Crimes Act 1890 may be made exparte and upon the applicant complying with the requirements of that Section the Full Court has no discretion but is bound to grant a rule directing the Sheriff to summon a Grand Jury." *(So held, per, Madden CJ. William, Holroyd and a'Beckett, JJ. Hodges and Hood, JJ, dissenting.)*

The words: *"The Full Court has no discretion but is bound to grant a rule"*, did bind the Full Court but in the year 2001, the Full Court did not consider itself bound, which is the reason why the Victorian Solicitor General was introduced into the matter with prior intent to overrule the Byrne/Armstrong judgment, a binding precedent judgment that had been relied upon for over 100 years of Victorian Law. It was overruled to protect Freemasonry from being placed in front of a Grand Jury. Such intent is still happening and evident with each Application and refusal to *file service and process*.

**26.** ATT-GENERAL VIC v THE C'WEALTH 146 CLR 629 1980

a) *"Neither a State nor the Federal Government can openly or secretly, participate in the affairs of any religious organizations or groups and vice versa."*
b) *"It was intended not only to keep the States hands out of religion, but to keep religion's hands off the State, and above all, to keep bitter religious controversy out of the public life by denying to every denomination any advantage from getting control of public policy or the public purse."*

**27.** ATT-GENERAL VIC v THE C'WEALTH 146 CLR 633 1980
*"Section 80 (trial by jury) and Section 116 are among the very few Guarantees of Freedom in the Constitution."*



RODNEY STYLE
Justice of the Peace
WA 5[illegible]5

**28.** *THAT, the Masonic rank and order, known as "The Shriners" requires either Masonic membership in the Knights Templars or in the 32nd degree of the Scottish rite. To be a "Shriner" is and remains today, a Masonic oath to serve the Muslim cause, bound by a Masonic oath to Allah in Mecca in the Middle East*

***OBLIGATION / OATH***

"...In willful violation whereof may I incur the fearful penalty of having my eyeballs pierced to the center with a three-edged blade, my feet flayed and I be forced to walk the hot sands upon the sterile shores of the Red Sea until the flaming Sun shall strike me with a livid plague, **and may Allah, the god of Arab, Moslem and Mohammedan, the god of our fathers, support me to the entire fulfillment of the same.** "(from the oath of obligation, Ancient Arabic Order of Nobles of the Mystic Shrine ["Shriners"])

**29.** THAT, the Application to this Honourable Court is lodged on the legal basis that the Oaths of Freemasonry are unlawful oaths contrary *inter alia* to section 316 of the *Crimes Act* 1958, Victoria, and as such constitute an indictable offence.

**30.** Campbell v McArdle 1986, unreported (Grand Jury Vic)

*"I should add that we also had an application from Mr. Flanagan, who appears for the Attorney-General, which was in substance to offer the services of the Attorney-General to the Court as amicus curiae. For reasons similar to those, which apply to the application on behalf of the defendant, the Court does not feel disposed at present to invite the Attorney-generals counsel to*



RODNEY STYLE
Justice of the Peace

*address us. We shall accordingly proceed with the matter ex-parte and consider the one matter which I earlier reserved, viz whether the affidavits disclose indictable offences."*

**31.** GRAND JURY: CRIMES ACT 1958: SECTION 354.

*"An application for a Grand Jury may be made exparte. It is sufficient if the affidavit in support of such an application discloses a state of facts which if true, amount to the committing of an indictable offence. Such facts need not necessarily be sworn to by the deponent as being within his own knowledge."*

(In re Davies & Millidge Supreme Court VLR. Vol xix)

**32.** Regina v Lord Chancellor, ex parte Witham QB (1998) at page 575

*A. The order of 1996 is ultra-vires. The Lord Chancellor in that it is in breach of legislative intent that access to the courts is not to be denied save by clear words in a Statute.*

*B. Every civilised system of Government requires that the State should make available to all its citizens a means for the just and peaceful settlement of disputes between them as to their respective legal rights that means provided are Courts of Justice to which every citizen has a Constitutional right of access in the role of a Plaintiff to obtain the remedy*



RODNEY STYLE
Justice of the Peace
WA 9146

*to which he claims to be entitled in consequence of an alleged breach of his legal or equitable rights by some other citizen or defendant.*

C. *It is a principle of our law that every citizen has a right of unimpeded access to a court.*

D. *Lord Wilberforce said that rules, which did not comply with that principle, would be ultra-vires.*

E. *A citizen's right to unimpeded access could only be taken away by express enactment.*

F. *There can be no balancing of the interests of Justice against the cost to public funds.*

Affirmed by Brian William Shaw

At...COOVERDALE.....in the State of Western Australia

This 19th Day of March, 2004

Before me:..... RODNEY STYLE
Justice of the Peace
WA 9146