

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

AFFIDAVIT IN SUPPORT
Shaw affidavit 23rd December 2009

Date of document:

5A 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 22.

1, 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 a 21 page affidavit affirmed by Brian Shaw on
23 December 2009 with 12 exhibits and lodged into the criminal
jurisdiction of the Supreme Court of Victoria on 23rd December 2009,
received by Mr Rob Schade on the named date.

The 12 exhibits are;

1. The Heiner Affair (QLD)

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2. Formal notice and charge (Western Australia)

3. Heenan Transcript (Western Australia)

4. Amendments about the Crown

5. Criminal charges

6. Oath of Allegiance removed

7. Business Unit 19

8. Hulls Bill 1



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

BEFORE ME: Margaret May Campbell

THIS 5th DAY OF MAY 2013.

AT: Wendouree IN THE STATE OF VICTORIA

AFFIRMED BY: [Signature] 50

Exhibit is marked; "Shaw affidavit 23 December 2009"

- 9. Hulls Bill 2
- 10. Hulls Bill 3
- 11. Hulls Grand Jury Application
- 12. Julia Gillard's grand Jury Application

BETWEEN

BRIAN WILLIAM SHAW

Applicant

- and -

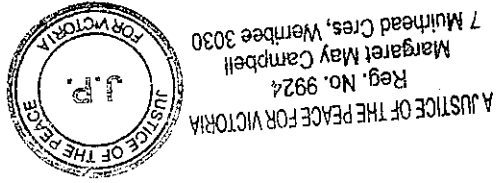
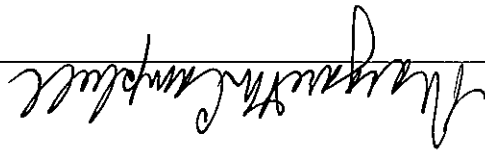
THE ANZ EXECUTORS and TRUSTEE COMPANY
LIMITED (AS THE TRUSTEES OF THE ESTATE
OF JOHN WILLIAM SHAW, DECEASED

Respondent

EXHIBIT

This is the exhibit referred to in the affidavit of Brian William Shaw affirmed
on the ^{5th} day of May 2013.

Before me:



“Shaw affidavit 23 December 2009”

B E T W E E N:

BRIAN WILLIAM SHAW

Plaintiff

and

ANZ EXECUTORS & TRUSTEE COMPANY LIMITED
(as Trustees of the Estate of JOHN WILLIAM SHAW, (deceased))

Defendant

**AFFIDAVIT IN SUPPORT
"SHAW AFFIDAVIT 23 DECEMBER 2009"**

Date of Document

23 May 2012

Filed on behalf of

Brian William Shaw

Prepared by

Plaintiff

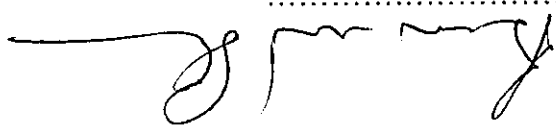
C/o PO Box 800 Werribee Victoria 3030

Phone 0487195522

I, Brian William Shaw, C/o PO Box 800 Werribee Victoria 3030, do state and affirm the following:

1. That the attached / exhibited affidavit consisting of 115 pages affirmed on the 23rd December 2009. Exhibit is marked "Shaw Affidavit 23 December 2009"

2. That the affidavit was first filed / lodged into the Criminal Jurisdiction of the Court of Appeals (Full Court) Supreme Court of Victoria on 23 December 2009.



.....
Affirmed by Brian Shaw

At WARRIBEE in the State of Victoria

This 23rd Day of May 2012

Before me: Margaret May Campbell



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

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION

No: 7640 of 2009

BETWEEN:

BRIAN WILLIAM SHAW

Plaintiff

and

ANZ EXECUTORS & TRUSTEE COMPANY LIMITED

(as Trustees of the Estate of JOHN WILLIAM SHAW, (deceased))

Defendant

EXHIBIT SHEET

This is the exhibit referred to and marked "Shaw Affidavit 23 December 2009" in the affidavit of Brian William Shaw, Affirmed on the 23rd day of May 2012 at Melbourne in the State of Victoria.

Before me: Margaret May Campbell



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

"Shaw Affidavit 23 December 2009"



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

Description of Exhibit *Shaw Affidavit 23 December 2009*

Before me: *Margaret May Campbell*

This is the Exhibit marked Exhibit No3 and referred to in the Affidavit in Support Affirmed on the *2nd* day of September 2010 at

Date of Document: 2 September 2010
Prepared on behalf of: The Applicant
Prepared by: Brian W Shaw

EXHIBIT

Respondent

FULL COURT OF THE SUPREME COURT OF VICTORIA

Applicant

BRIAN WILLIAM SHAW

MANDAMUS

IN THE MATTER OF AN APPLICATION FOR A WRIT OF

No of 2010

IN THE FULL COURT OF THE SUPREME COURT OF VICTORIA

IN THE MATTER of the Crimes Act 1958

And

IN THE MATTER of an Application by
Brian William Shaw

AFFIDAVIT OF B. W. SHAW

Date of Document: 23 December 2009

Filed on behalf of: The Applicant

Prepared by: Brian William Shaw

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

Grand Jury Applications

1. THAT, I have filed a number of Grand Jury Applications in the period 2001 -
2009 in the Supreme Court of Victoria under the Criminal Jurisdiction of the
Full Court of the Supreme Court

2. THAT, both staff and Judges operating out of this particular Court are under
unlawful orders from persons unknown not to issue file numbers nor stamp the
filed documents or list a hearing date, accordingly the respective offenders
named in each Grand Jury Application have not yet had the legal process of
Grand Jury exercised

3. That under the unlawful umbrella a Bill titled "*Criminal Procedure Bill 2008*" has been introduced into the Parliament of Victoria stating one of the purposes of the Bill at 1(f)

"to abolish the procedure of indictment by Grand Jury"

Business Unit 19

4. THAT, I have knowledge that the Supreme Court of Victoria, formerly running under the arm of State Government, the judicial arm is now called "*Business Unit 19*" and as such is purportedly included under the umbrella of the Justice Department of Victoria, headed by the Victorian Attorney General Mr. R Hulls. The current President of the Court of Appeal Victoria is Mr. Chris Maxwell in addition the current Chief Justice of the Supreme Court is Marilyn Warren. The existence of "*Business Unit 19*" was revealed in departing speeches of Justice Phillips and Ormiston. The existence of "*Business Unit 19*" under the purported auspices of Mr. Hulls would destroy the impartiality of the Supreme Court and place Mr. Hulls above the Supreme Court unlawfully

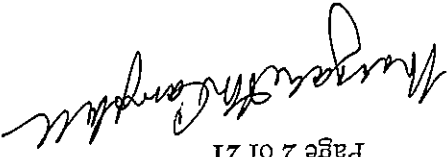
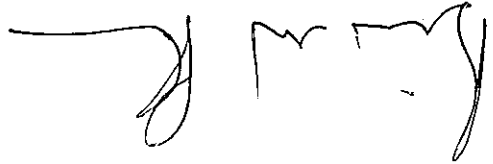
5. That I state in this affidavit that "*Business Unit 19*" formally called the Supreme Court of Victoria is under such concealment because the people of Victoria and Commonwealth do not know of its existence or purpose

Manner & Form

6. THAT, I state in this affidavit that a concerted attack has been launched by persons unknown against the Constitutions of each State to remove established and existing law by removing the stated allegiance without "*the required referendum*" required under manner and form

7. THAT, within the State of Victoria in the period 1975 – 2009 specific legislation has been both introduced and enacted without valid manner and form

8. THAT, under existing law the current Commonwealth Constitution is the superior Constitution and as such sections 106, 109 and 128 are superior and binding in law



Freemasonry

9. THAT, in this affidavit I state that the occultic structure and organization of Freemasonry is the casual link to the destruction of existing law within the Commonwealth of Australia in particular the respective States of such Commonwealth

10. THAT, the oath of allegiance in the Australian jurisdiction of the United Kingdom Masonic warrant is entirely unknown to the people of Victoria and the Commonwealth of Australia

11. THAT, the compulsory oath of each member embracing Freemasonry contains a compulsory oath / affirmation "*To conceal and never reveal*"

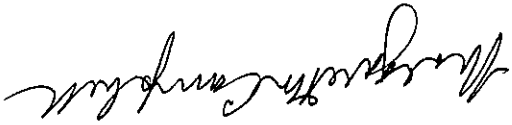

The Victorian Constitution

12. THAT, in the year 1975 the Victorian Parliament purportedly repealed the former Constitution of the State of Victoria 1855 and introduced the 1975 Victorian Constitution of 1975, but, up to and inclusive of this present date the Victorian Parliament has been unable to produce the United Kingdom's Parliament Act that formally repealed the Victorian Constitution document of 1855, the legal property of the United Kingdom and as such unable to be repealed by the Victorian Parliament without formal repeal legislation by the United Kingdom prior to repeal and enactment legislation

13. THAT, in the year 1975 the Governor of the State of Victoria was Henry Winneke the former Chief Justice of the Supreme Court of Victoria and Father of John Winneke a former President of the Court of Appeal Victoria established 1995, now under the Justice Department (Vic)

Five Judges Presiding

14. THAT, in the year 2001 I did co-join with Carmen Walter in a Grand Jury Application under section 354 Crimes Act 1958 Victoria to hear indictable issues against Freemasonry Victoria and their various entities



15. THAT, the President of the Court of Appeal at the time was President Winneke who refused a disclosure challenge from the bar table on the day of the actual hearing thereby creating a void hearing and as such must be heard again

16. THAT, since the original Grand Jury Application hearing in this particular chain of litigation the Supreme Court of Victoria, or rather "Business Unit 19" has not heard any of the filed Grand Jury Applications

No UK Repeal Act

17. THAT, I have stated in this affidavit the primary legal issue being the enactment of a New Constitution for Victoria without the formal Repeal Act of the United Kingdom Parliament prior to the enactment in 1975, in addition specific changes to respective Crown appointments or officers have occurred specifically in the legislation affecting the Director of Public Prosecutions Act (Vic) and the Legal Practice Act (Vic)

Queensland

18. THAT, in the State of Queensland unlawful legislation has been introduced and enacted that altered the Constitution of the State of Queensland and created an entity titled "Brigalow Corporation" without valid manner and form

Western Australia

19. THAT, in the State of Western Australia in the period 2003 up to and inclusive of the present date an Act titled "Acts Amendment and Repeal Courts and Legal Practice Act 2003 (WA)" unlawfully and illegally removed both Crown and Oath of Allegiance from sum 80 odd Acts within the State of Western Australia without valid manner and form

Mr. R Hawke

20. THAT, in the period 1984-1986 the then Prime Minister of the Commonwealth of Australia Mr. R Hawke in union with the various State Premiers did cause legislation to be introduced and enacted into the respective State and Commonwealth Parliaments involving the United Kingdom Parliament involving specific legislation to create "The Australia Act", but, the Australia

Act was created in constitutional breach of sections 106, 109 and 128 of the

Constitution of the Commonwealth of Australia and as such is invalid legislation or *ultra vires* under the current Commonwealth Constitution

Treason

21. THAT, the offence of Treason is created when the Oath of Allegiance is breached. This is established law

22. THAT, the offence of Misprision of Treason (Concealment of Treason) is created when the primary offence is concealed

Section 44

23. THAT, the current Constitution of the Commonwealth of Australia at Section 44 of such Constitution disqualifies any person who has taken an Oath of Allegiance to a Foreign Power or is Attainted of Treason from sitting in the Commonwealth Parliament or of being chosen

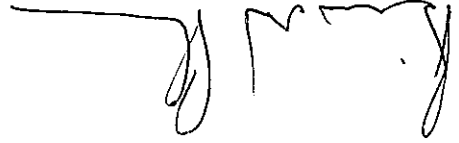
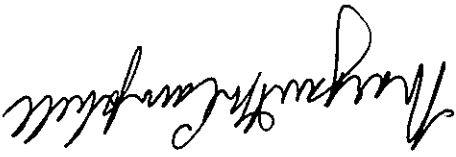
High Court

24. THAT, in the year 2004 the Crown and Oath of Allegiance was unlawfully and illegally removed from the State of Western Australia, (No Referendum) but the current Chief Justice of the High Court Mr. Robert French came from Western Australia after the removal of both Crown and Allegiance, thereby tainting the entire High Court with the primary criminal offence of Breach of Allegiance

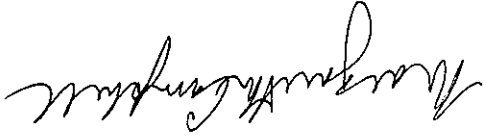
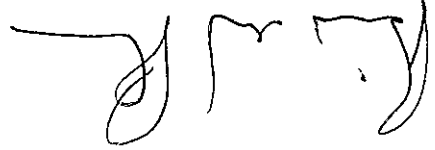
Grand Jury Defendants

25. THAT, in the period 2001-2009 the following individuals have had Grand Jury Applications filed against each individual in the Criminal Jurisdiction, Full Court, Supreme Court in the State of Victoria an original State to Federation and as such created at Federation from the former Colony status

- 1) Mr John Winneke
Former President Court of Appeal (Vic)
- 2) Mr Brooking
Judge Court of Appeal (Vic)
- 3) Mr Charles
Judge Court of Appeal (Vic)
- 4) Mr Buchanan
Judge Court of Appeal (Vic)



- 5) Mr Chernov
Judge Court of Appeal (Vic)
- 6) Mr. Charles Wheeler
Former Master Supreme Court (Vic)
- (2 Applications)
- 7) Mr Paul Coghlan
Former Director of Public Prosecutions (Vic)
- Currently a Judge of the Victoria Supreme Court
- 8) Mr Phillip Cain
Registrar Court of Appeal (Vic)
- 9) Mr Damian Bugg
Director of Public Prosecutions Commonwealth
- 10) Mr David Ward
CEO ANZ Trustees
- 11) Mr James Rutherford
Director/Partner, Harwood Andrews
Lawyers Geelong
- 12) Mr Ewan Evans
Master Supreme Court (Vic)
- 13) Mr Thomas Smith
Judge Supreme Court (Vic)
- 14) Kathryn Kings
Master Supreme Court (Vic)
- 15) Mr M Kirby
Former Judge High Court of Australia
- 16) Mr Ian Callinan
Former Judge High Court of Australia
- 17) Mr James McGinty
Former Attorney General Western Australia
- 18) John Howard
Former Prime Minister
- 19) Kim Beazley
Former Leader of the Opposition
- (Commonwealth)
- 20) Michael Jeffery
Former Governor General (Commonwealth)
- 21) Phillip Ruddock
Former Attorney General
- Commonwealth of Australia
- 22) Sydney James Stirling
Attorney General Northern Territory
- 23) Michael Atkinson
Attorney-General South Australia
- 24) Kerry Shine
Former Attorney General Queensland
- 25) Rob Justin Hulls,
Current Attorney-General Victoria
- 26) Simon Corbell,
Attorney General ACT
- 27) Steve Kons,
Attorney General Tasmania
- 28) Robert John Debus,
Attorney-General NSW
- 29) Audrey Gillian Braddock
Supreme Court WA (Commissioner)
- 30) Wayne Stewart Martin
Supreme Court WA (Chief Justice)
- 31) Christine Ann Wheeler
Supreme Court WA
- 32) Christopher David Steytler
Supreme Court WA
- 33) Christopher James Lonsdale Pullin
Supreme Court WA

Mr. Justice Gummow
Page 7 of 21

John Roderick McKechnie

26. THAT, resulting from the criminal offences laid against the Attorney Generals and Commonwealth Director of Public Prosecutions two specific Attorney Generals in Victoria and Western Australia have had their respective Courts declare myself a Vexatious Litigant in an "attempt to pervert the course of justice", so that their respective Grand Jury Applications would never be heard, in addition, the Victorian Attorney General Mr R Hulls has moved to attempt to remove the legal right within Victoria to go before a Grand Jury under Private Prosecution status section 354 Crimes Act 1958 (Vic)

Vexatious Litigation

- 34) John Roderick McKechnie Supreme Court WA
- 35) Michael John Buss Supreme Court WA
- 36) Corryn Rayney Supreme Court WA (Murdered)
- 37) Robert Cock QC Director of Public Prosecutions WA
- 38) Darren W L Renton Commonwealth DPP, WA
- 39) Robert MacKenzie Mitchell State Solicitor's Office WA
- 40) John James Mansell Bowler Minister Mining (Now Independent)
- 41) Mr J Maley Grand Master, WA Freemasons
- 42) C Randazzo Melbourne Magistrates Court (Stood Down)
- 43) Mr Ian Leslie Gray, Chief Magistrate, Magistrates Court of Victoria
- 44) Mr Malcolm Macleod, Southwest Christian Church Werribee (Pastor)
- 45) Mr Max Bower, Anglican Church Werribee (Priest)
- 46) John Dyson Heydon Justice (High Court)
- 47) William Montague Charles Gummow Justice (High Court)
- 48) Anthony Murray Gleeson Justice (High Court)
- 49) Susan Maree Crennan Justice (High Court)
- 50) Kenneth Madison Hayne Justice (High Court)
- 51) Rob Hulls Attorney General Victoria
- 52) Julia Gillard (MP) Werribee Victoria (current Deputy Prime Minister)
- 53) Dadds-Streton Judge Court of Appeal (Vic)
- 54) Justice Nettle Judge Court of Appeal (Vic)

Justice Nettle and Dodds-Streeton

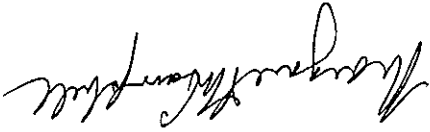
27. THAT, on 14th March 2008 Justice Nettle and Dodds-Streeton heard the Appeal in the matter No 9997 of 2006 Shaw v The Attorney General for the State of Victoria, both Justices refused the bias challenge and ignored the Grand Jury Applications, accordingly the following individuals present within the Court filed Grand Jury Applications against both Justices and exhibited with their respective affidavits, the Grand Jury Application involving and concerning Julia Gillard, the current Deputy Prime Minister of Australia sitting in the electorate representing Werribee/Wyndham (Vic)

- 1) Mr Darren Latham
- 2) Mr Wayne Glew
- 3) Mr Kim Shadbolt
- 4) Mr Clive Willis Jones
- 5) Mr Angelo Bonola
- 6) Mr Stewart Ropata
- 7) Mr Rangī Ropata
- 8) Mr Calvin Tipene
- 9) Mr Maxwell Wilson
- 10) Mr Peter Ridout

28. THAT, on the 15th December 2006 at the Melbourne Magistrates Court in the State of Victoria Chief Magistrate Ian Gray did preside over the private prosecution charges issued by myself against specific named individuals. During the course of the hearing Mr. Grey stated

“You will not be relying on the Constitution in my Court”

29. THAT, as a consequence of this unlawful statement a number of individuals present did lay private prosecution charges against Mr Gray and others returnable to the Melbourne Magistrates Court 29th January 2007 after which all named defendants had Grand Jury Applications filed against them at the Office of the Court of Appeal, Full Court, (Vic) 450 Lt Bourke Street Melbourne Victoria



30. THAT, the specific people who filed these charges and Grand Jury Applications

are

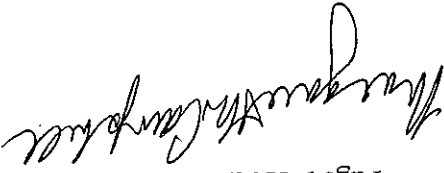
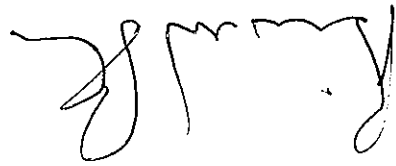
- 1) Angelo Bonola
- 2) Graham Daniels
- 3) Darren Latham
- 4) Richard Lloyd
- 5) Jack Moran
- 6) Michael Turner
- 7) Steve Douglas

31. THAT, in relation to specific Religious Leaders within the Commonwealth of Australia the following Religious Leaders have direct knowledge of the criminal activity revealed in this affair, but, for reasons unknown have concealed the criminal offences against the State and Commonwealth Constitutions from the respective Church Members/Electors both State and Commonwealth

- | | |
|-----------------------|-----------------|
| 1) Mr Graham Laidlaw | Werribee (Vic) |
| 2) Mr Graham Harris | Werribee (Vic) |
| 3) Mr Malcolm MacLeod | Werribee (Vic) |
| 4) Mr Erin Shaw | Werribee (Vic) |
| 5) Mr Max Bower | Werribee (Vic) |
| 6) Mr Stuart Robinson | Blackburn (Vic) |
| 7) Mr Ross Bourdon | Ballarat (Vic) |
| 8) Margaret Court | Perth (WA) |
| 9) Mr. Phillip Baker | Perth (WA) |
| 10) Mr. Danny Natiah | Melbourne (Vic) |
| 11) Mr Mark Wilkinson | Werribee (Vic) |

Crimes Act 1914 (Commonwealth)

32. THAT, section 44 of the Crimes Act 1914 (Commonwealth) is operating in this particular affidavit, but, the legal consequences are not limited to this particular portion of the Rule of Law. The section is quoted into this affidavit



Compounding offences

Any person who asks receives or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or herself, or any other person, upon any agreement or understanding that he or she will compound or conceal any indictable offence against the law of the Commonwealth or a Territory, or will abstain from, discontinue, or delay any prosecution for any such offence, or will withhold any evidence thereof, shall be guilty of an offence.
Penalty: Imprisonment for 3 years.

Senators

33. THAT, in respect of all current Senators currently sitting in the Commonwealth Parliament at Canberra Australia all have been legally notified in writing that the Crown has been fractured unlawfully and illegally. Such written information is not included in this affidavit but is available during the course of due process

Former Governor General

34. THAT, I state within this affidavit that one of the named defendants specifically the former Governor General Michael Jeffrey is a confirmed and committed Freemason, but, in the alternative also states that he is a Christian. The two allegiances are impossible to reconcile together, additionally Mr. Jeffrey did not ratify the appointment of Quentin Bryce because of specific Queensland Crown Authorities relating to the Heiner Affair in Queensland. Exhibited into this affidavit is a copy of a letter written by Jake Lee, Dr Frank McGrath, Alastair Macadam, R.P. Meagher, Barry O'Keefe, Alex Stand QC, and David Malcolm to the then Premier of Queensland Mr Peter Beattie, stating in portion

1) "We believe that it is the democratic right of every Australian to expect that the criminal law shall be applied consistently, predictably and equally by law-enforcement authorities throughout the Commonwealth of Australia in materially similar circumstances"

2) "We believe that any action by Executive Government which may have

breached the law ought not be immune from criminal prosecution"

3) "To do otherwise, we suggest would undermine the rule of law and

confidence in government. It would tend to place Executive

Government above the law. "

4) "This affair encompasses all the essential democratic ideals. The right

to a fair trial without interference by government and the right to

impartial law-enforcement, to say nothing of respecting the rule of law

itself rest at its core."

5) "Respecting the doctrine of the separation of powers and our

constitutional monarchy system of democratic government are

involved."

The three page letter is marked "The Heiner Affair (Qld)" Exhibit 1

Full Court Western Australia

35. THAT, in the period April 2006 I did appear before the Full Court of the

Supreme Court of Western Australia on appeal from the vexatious application

issued in the Western Australia jurisdiction against myself by the then Attorney

General Mr. James McGinty and co-joined by the Director of Public

Prosecutions Commonwealth Mr Damian Bugg.

The Full Court comprised Justices Steytler, Buss and Wheeler, the three Justices

were placed under arrest from the bar table and presented with their formal

notice and charge, which was formally filed and served via the Victorian

jurisdiction and currently awaits a grand jury hearing in accordance with Rule of

Law and judicial independence

The eleven page notice and charge tendered into the respective Court within

Western Australia on the day is exhibited and marked "Formal Notice and

Charge (WA)" Exhibit 2

Justice Heenan

36. THAT, on 22nd October 2007 in the matter No 1955 of 2007 I did appear before Justice Heenan in the Supreme Court of Western Australia. A 27 page transcript of that appearance is exhibited into this affidavit and marked "*The Heenan Transcript (WA)*" Exhibit 3

Crown Removed Western Australia

37. THAT, in the period 2003/2004 the former Attorney General of Western Australia did introduce legislation into the Parliament of Western Australia that was entirely "*Beyond Power*", the legislation is titled "Acts Amendment and Repeal Courts and legal Practice Act 2003 (WA)" exhibited into this affidavit and marked "*Amendments about the Crown*" Exhibit 4, is Part 8 of such legislation relating to plus the enactment, 8 pages in total

Criminal Charges (Vic)


38. THAT, by letter dated 15th April 2008 I did receive correspondence from David Ryan, managing principal Solicitor for Victorian Government Solicitors Office, the correspondence is exhibited and marked "*Criminal Charges*" Exhibit 5

Legal Practice Act (Vic)

39. THAT, in the year 2000 the Attorney General for Victoria Mr. R Hulls did introduce legislation into the Parliament of Victoria titled, Courts and Tribunals Legislation (Further Amendment) Act 2000 portion of which removed the Oath of Allegiance from the Legal Practice Act (Vic) without referendum approval or consent in Constitutional breach of section 106, 109 and 128 of the Commonwealth Constitution, but not limited to these sections. The entire Act is exhibited and marked "*Oath of Allegiance Removed*" Exhibit 6

Phillips Speech

40. THAT, on 24 March 2005 the Age Newspaper wrote an article titled "*The Corporation of our Courts*" quoting the closing or departing speech of John D Phillips, a former Supreme Court Judge, portion is quoted herein



"Yet within the department of Justice this Court is now identified and dealt with you believe as "Business Unit 19" within a section labeled "Courts and tribunals" a section which indiscriminately includes all these tires of the Court structure and VCAT"

The article is exhibited and marked "Business Unit 19" Exhibit 7

Criminal Procedure Bill

41. THAT, on 2 December 2008 the Victorian Attorney General Mr. Rob Hulls (a Grand Jury Defendant) did introduce a Bill titled "*Criminal Procedure Bill*" into the Victorian Parliament. The Vic Hansard, House of Assembly extract is exhibit and marked "*Hulls Bill 1*" Exhibit 8

42. THAT, on 2 February 2009 the Criminal Procedure Bill (Vic) had second reading activity (Clark). The Vic Hansard extract is exhibited and marked "*Hulls Bill 2*" Exhibit 9

43. THAT, on 2 February 2009 the Criminal Procedure Bill (Vic) had second reading activity (Rich/Phillips). The Vic Hansard extract is exhibited and marked "*Hulls Bill 3*" Exhibit 10

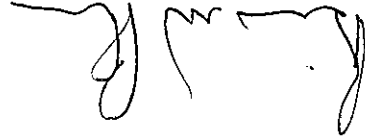
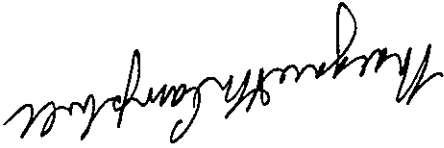
Australia Act Section 6

44. THAT, the purported power to alter or change State Constitutions or Oath of Allegiance emanates from the 1986 enactment of the Australia Act under Mr. R Hawke, but, section 6 of the purported Australia Act states that if legislation is created without correct or valid manner and form then the created legislation is not valid in law. The section is quoted into this affidavit

AUSTRALIA ACT 1986 - SECT 6

Manner and form of making certain State laws

Notwithstanding sections 2 and 3(2) above, a law made after the commencement of this Act by the Parliament of a State respecting the constitution, powers or procedure of the Parliament of the State shall be of no force or effect unless it is made in such manner and form as may



from time to time be required by a law made by that Parliament, whether made before or after the commencement of this Act.

State Constitutions

45. THAT, three State Constitutions contain binding manner and form legislation, these States are New South Wales, Queensland, and Western Australia

1) NEW SOUTH WALES

CONSTITUTION ACT 1902

5B Disagreements—referendum

(1) If the Legislative Assembly passes any Bill other than a Bill to which section 5A applies, and the Legislative Council rejects or fails to pass it or passes it with any amendment to which the Legislative Assembly does not agree, and if after a free conference between managers there is not agreement between the Legislative Council and the Legislative Assembly, the Governor may convene a joint sitting of the Members of the

Legislative Council and the Members of the Legislative Assembly. The Members present at the joint sitting may deliberate upon the Bill as last proposed by the Legislative Assembly and upon any amendments made by the Legislative Council with which the Legislative Assembly does not agree. No vote shall be taken at the joint sitting.

(2) After the joint sitting and either after any further communication with the Legislative Council in order to bring about agreement, if possible, between the Legislative Council and the Legislative Assembly, or without any such communication the Legislative Assembly may by resolution direct that the Bill as last proposed by the Legislative Assembly and either with or without any amendment subsequently agreed to by the Legislative Council and the Legislative Assembly, shall, at any time during the life of the Parliament or at the next general election of Members of the Legislative Assembly, be submitted by way of referendum

to the electors qualified to vote for the election of Members of the

Legislative Assembly. The referendum shall be held and conducted, if the Constitution Further Amendment (Referendum) Act 1930 or any other

Act relating to the manner in which the referendum shall be held and

conducted is in force, in accordance with that Act or with any other such

Act, but if that Act is not in force and no such other Act is in force the

law for the time being in force relating to the holding and conduct of a

general election of Members of the Legislative Assembly shall, mutatis

mutandis, apply to and in respect of the holding and conduct of the

referendum, with such modifications, omissions, and additions as the

Governor may by notification published in the Gazette declare to be

necessary or convenient for the purposes of such application.

(3) If at the referendum a majority of the electors voting approve the Bill

it shall be presented to the Governor for the signature of His

Majesty's pleasure thereon and become an Act of the Legislature upon

the Royal Assent being signified thereto, notwithstanding that the

Legislative Council has not consented to the Bill.

CONSTITUTION ACT 1902

7A Referendum for Bills with respect to Legislative Council and

certain other matters

(1) The Legislative Council shall not be abolished or dissolved, nor

shall:

(a) its powers be altered,

(b) section 11A, Division 2 of Part 3 (sections 22G, 22H, 22I and

22J excepted), the Sixth Schedule or this section be expressly or

impliedly repealed or amended,

(c) any provision with respect to the persons capable of being

elected or of sitting and voting as Members of either House of

Parliament be enacted, or

(d) any provision with respect to the circumstances in which the

seat of a Member of either House of Parliament becomes vacant

be enacted,

except in the manner provided by this section.

(2) A Bill for any purpose within subsection (1) shall not be presented to the Governor for His Majesty's assent until the Bill has been approved by the electors in accordance with this section.

CONSTITUTION ACT 1902

7B Referendum for Bills with respect to Legislative Assembly and certain other matters

(1) A Bill that:

- (a) expressly or impliedly repeals or amends section 11B, 26, 27, 28 or 29, Part 9, the Seventh Schedule or this section, or
- (b) contains any provision to reduce or extend, or to authorise the reduction or extension of, the duration of any Legislative Assembly or to alter the date required to be named for the taking of the poll in the writs for a general election,

shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section.

2) QUEENSLAND

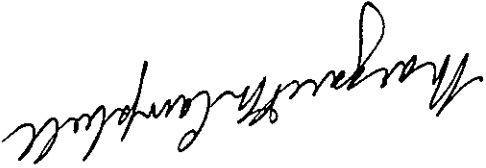
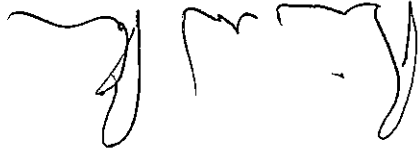
CONSTITUTION ACT 1867 - SECT 53

53 Certain measures to be supported by referendum

(1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely--

sections 1, 2, 2A, 11A, 11B; and this section 53 shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the Elections Act



1915-1973 and of any Act amending the same or of any Act in

substitution therefor:

Such day shall be appointed by the Governor in Council by Order in

Council.

(3) When the Bill is submitted to the electors the vote shall be taken in

such manner as the Parliament of Queensland prescribes.

(4) If a majority of the electors voting approve the Bill, it shall be

presented to the Governor for reservation thereof for the signification of

the Queen's pleasure.

(5) Any person entitled to vote at a general election of members of the

Legislative Assembly is entitled to bring proceedings in the Supreme

Court for a declaration, injunction or other remedy to enforce the

provisions of this section either before or after a Bill of a kind referred to

in subsection (1) is presented for assent by or in the name of the Queen.

3) WESTERN AUSTRALIA

CONSTITUTION ACT 1889 - SECT 73

73 Legislature as constituted by this Act empowered to alter any of

its provisions

(1) Subject to the succeeding provisions of this section, the Legislature of

the Colony shall have full power and authority, from time to time, by

any Act, to repeal or alter any of the provisions of this Act. Provided

always, that it shall not be lawful to present to the Governor for Her

Majesty's assent any Bill by which any change in the Constitution of

the Legislative Council or of the Legislative Assembly shall be

effected, unless the second and third readings of such Bill shall have

been passed with the concurrence of an absolute majority of the

whole number of the members for the time being of the Legislative

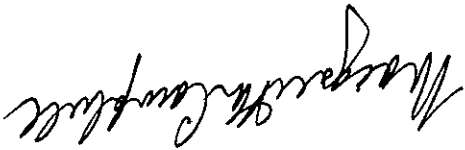
Council and the Legislative Assembly respectively. Provided also,

that every Bill which shall be so passed for the election of a

Legislative Council at any date earlier than by Part III provided, and

every Bill which shall interfere with the operation of sections 69, 70,

71, or 72, or of Schedules B, C, or D, or of this section, shall be



reserved by the Governor for the signification of Her Majesty's

pleasure thereon

(2) A Bill that —

(a) expressly or impliedly provides for the abolition of or

alteration in the office of Governor; or

(b) expressly or impliedly provides for the abolition of the

Legislative Council or of the Legislative Assembly; or

(c) expressly or impliedly provides that the Legislative

Council or the Legislative Assembly shall be composed of

members other than members chosen directly by the people; or

(d) expressly or impliedly provides for a reduction in the

numbers of the members of the Legislative Council or of the

Legislative Assembly; or

(e) expressly or impliedly in any way affects any of the

following sections of this Act, namely — sections 2, 3, 4, 50, 51

and 73, shall not be presented for assent by or in the name of

the Queen unless —

(f) the second and third readings of the Bill shall have been

passed with the concurrence of an absolute majority of the whole

number of the members for the time being of the Legislative

Council and the Legislative Assembly, respectively; and

(g) the Bill has also prior to such presentation been

approved by the electors in accordance with this section, and a

Bill assented to consequent upon its presentation in

contravention of this subsection shall be of no effect as an Act.

Superior Constitution

46. THAT, in addition to the binding manner and form requirements found in three

State Constitutions the superior Constitution also contains a binding manner and

form requirement at section 128

Commonwealth Referendum 1999

47. THAT, at no time in the period 1984 up to and inclusive of the present date have

any of the States or Commonwealth abided by their required manner and form

limitations with the exception of 6th November 1999 when section 128 of the superior Constitution was activated in relation to the electors removing the Constitutional Monarch and substituting a republic

Sections 106 and 109

48. THAT, in relation to the superior Constitution section 106 and 109 are included into this affidavit

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

SECT 106

Saving of Constitutions

The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

SECT 109

Inconsistency of laws

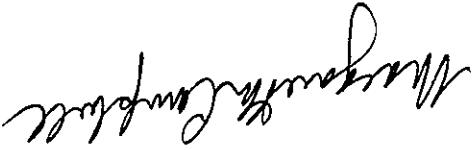
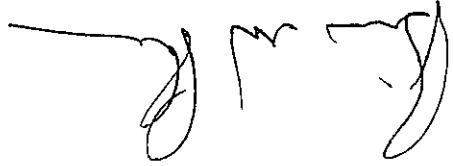
When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Mr. R Hulls

49. THAT, on three separate occasions Grand Jury process has been instigated and lodged at the Full Court, Supreme Court, Criminal Jurisdiction against the current Attorney General for the State of Victoria, Mr. R Hulls. The applications remain pending on such application is exhibited with the Court stamp and date. Exhibit is marked "Hulls Grand Jury Application" Exhibit 11

Julia Gillard

50. THAT, on 29th January 2007 the Melbourne Magistrates Court heard Criminal Charges filed by Private Prosecution right against a number of named defendants; one such defendant was and remains Julia Gillard, the current Deputy Prime Minister of the Commonwealth of Australia.



The Grand Jury Application is exhibited and marked "Gillard's Grand Jury Application" Exhibit 12

Section 80

51. That, I state in this affidavit that the superior Constitution is the Commonwealth Constitution accordingly the Constitutional Right of Trial by Jury under section 80 of the superior Constitution is hereby exercised in relation to the lodged Grand Jury Applications in the period 2001-2009

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT
SECT 80

Trial by jury

The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

52. Attached to this affidavit are exhibits marked

- AS. 22. The Heiner Affair (Qld) Exhibit marked "Exhibit 1"
- AS. 26 Formal Notice and Charge (WA) Exhibit marked "Exhibit 2"
- AS. 38 The Heenan Transcript (WA) Exhibit marked "Exhibit 3"
- AS. 63 Amendments about the Crown Exhibit marked "Exhibit 4"
- AS. 72 Criminal Charges Exhibit marked "Exhibit 5"
- AS. 78 Oath of Allegiance Removed Exhibit marked "Exhibit 6"
- AS. 96 Business Unit 19 Exhibit marked "Exhibit 7"
- AS. 99 Hulls Bill 1 Exhibit marked "Exhibit 8"
- AS. 101 Hulls Bill 2 Exhibit marked "Exhibit 9"
- AS. 104 Hulls Bill 3 Exhibit marked "Exhibit 10"
- AS. 107 Hulls Grand Jury Application Exhibit marked "Exhibit 11"
- AS. 109 Gillard's Grand Jury Application Exhibit marked "Exhibit 12"



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

Margaret May Campbell
.....
Before me

This 23 Day of December 2009

At Werribee in the State of Victoria

Brian Shaw
.....
Affirmed by Brian Shaw

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

Exhibit *The Heiner Affair (Old)*

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 1 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of an Application by
Brian William Shaw
And
IN THE MATTER of the Crimes Act 1958

IN THE SUPREME COURT OF VICTORIA
FULL COURT - CRIMINAL JURISDICTION

No of 2009

The Hon Peter Beattie MLA
Queensland Premier
Executive Building
80 George Street
BRISBANE QLD 4000
Dear Premier

THE HEINER AFFAIR - A MATTER OF CONCERN

We, the undersigned legal practitioners formerly on the Bench, currently at the Bar or in legal practice, seek to re-affirm our sworn duty to uphold the rule of law throughout the Commonwealth of Australia and to indicate our deep concern about its undermining as the unresolved Heiner affair reveals.

We believe that it is the democratic right of every Australian to expect that the criminal law shall be applied consistently, predictably and equally by law-enforcement authorities throughout the Commonwealth of Australia in materially similar circumstances. We believe that any action by Executive Government which may have breached the law ought not be immune from criminal prosecution where and when the evidence satisfies the relevant provision.

To do otherwise, we suggest would undermine the rule of law and confidence in government. It would tend to place Executive Government above the law.

At issue is the order by the Queensland Cabinet of 5 March 1990 to destroy the Heiner Inquiry documents to prevent their use as evidence in an anticipated judicial proceeding, made worse because the Queensland Government knew the evidence concerned abuse of children in a State youth detention centre, including the alleged unresolved rape of an indigenous female child by other male inmates.

The affair exposes an unacceptable application of the criminal law by prima facie double standards by Queensland law-enforcement authorities in initiating a successful proceedings against an Australian citizen, namely Mr. Douglas Ensby, but not against members of the Executive Government and certain civil servants for similar destruction-of-evidence conduct. Compelling evidence suggests that the erroneous interpretation of section 129 of the Criminal Code (Qld) used by those authorities to justify the shredding of the Heiner Inquiry documents may have knowingly advantaged Executive Government and certain civil servants.

This serious inconsistency in the administration of Queensland's Criminal Code touching on the fundamental principle of respect for the administration of justice by proper preservation of evidence concerns us because this principle is found in all jurisdictions within in the Commonwealth as it sustains the rule of law generally.

The Queensland Court of Appeal's binding September 2004 interpretation of section 129 in R v Ensby; ex parte A-G (Qld) [2004] QCA 335 exposed the erroneous interpretation that the (anticipated/imminent) judicial proceeding had to be on foot before section 129 could be triggered.

We are acquainted with the affair* and specifically note, and concur with, (the late) the Right Honourable Sir Harry Gibbs GCMG, AC, KBE, as President of The Samuel Griffith Society, who advised that the reported facts represent, at least, a prima facie offence under section 129 of the Criminal Code (Qld) concerning destruction of evidence.

In respect of the erroneous interpretation of section 129 adopted by Queensland authorities, we also concur with the earlier 2003 opinion of former Queensland Supreme and Appeal Court Justice, the Hon James Thomas AM, that while many laws are indeed arguable, section 129 was never open to that

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Such an independent transparent process we believe will restore public confidence in the administration of justice throughout the Commonwealth of Australia, more especially in Queensland.

We urge the Queensland Government to appoint an independent Special Prosecutor as recommended by the House of Representatives Standing Committee on Legal and Constitutional Affairs in its August 2004 Report (Volume Two - Recommendation 3) following its investigation into the affair as part of its national inquiry into "Crime in the community: victims, offenders and fear of crime".

We find such a prospect unacceptable.

We suggest that if the Heiner affair remains in its current unresolved state, it would give reasonable cause for ordinary citizens, especially Queenslanders, to believe that there is one law for them, and another for Executive Government and civil servants.

We believe that the issues at stake are too compelling to ignore.

This affair encompasses all the essential democratic ideals. The right to a fair trial without interference by government and the right to impartial law-enforcement, to say nothing of respecting the rule of law itself rest at its core. Respecting the doctrine of the separation of powers and our constitutional monarchy system of democratic government are involved.

Under the circumstances, we suggest that any claim of "staleness" or "lack of public interest" which may be mounted now by Queensland authorities not to revisit this matter ought to fail. Neither the facts, the law nor the public interest offer support in that regard. However, should such a claim be mounted, we suggest that it would tend to be self-serving and undermine public confidence in the administration of justice and in government itself knowing that the 2004 Ensbey conviction, taken by the same Queensland Crown, did not occur until some 9 years after the relevant destruction-of-evidence incident.

Such scandalizing of these disclosure/discovery Rules by the Executive also concerns us. So fundamentally important is respect for these Rules that the judiciary's independent constitutional functionality depends on it.

Evidence adduced also reveals that the Queensland Government and Office of Crown Law knew, at the time, that the records would be discoverable under the Rules of the Supreme Court of Queensland once the expected writ/plaint was filed or served. With this knowledge, the Queensland Government ordered the destruction of these public records before the expected writ/plaint was filed or served to prevent their use as evidence.

It concerns us that such an erroneous view of section 129 was persisted with for well over a decade despite the complainant, supported by eminent lawyers, pointing out the gravity of their error consistently since 1990 when knowing its wording and intent were so unambiguous, with authoritative case law available for citing dating back as far as 1891 in *R v Vreones*.

"Any person who, knowing that any book, document, or other thing of any kind, is or may be required in evidence in a judicial proceeding, willfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years." (Underlining added).

Section 129 of the Criminal Code (Qld) - destruction of evidence - provides that:

interpretation.

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

Exhibit Formal Notice and Charge (WA)

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 2 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

FULL COURT - CRIMINAL JURISDICTION

IN THE SUPREME COURT OF VICTORIA No of 2009

Formal Notice and Charge

Under

The Public Interest Disclosure Act 2003 WA

Criminal Code Compilation Act 1913 WA s.3 (2) s.4 s.5 s.237 s.255

"IN GOOD FAITH"

I, Brian William Shaw, in civil matter CACV 83/2005, Shaw v Attorney General Mr. J McGinty and other, Mr. Damian Bugg, Commonwealth Director of Public Prosecutions, Hereby formally give notice and lay the Information – Presentation before the Court, that all Judges / Masters / Commissioners of the Supreme Court of Western Australia formally appointed by the Government and Parliament of the State of Western Australia, bound by the Crown, under Her Majesty Queen Elizabeth the Second are formally charged with Common and Statute Law Treason plus Misprison of Treason, in addition to Conspiracy to Defeat Justice, Attempting to Pervert Justice, Compounding Offences, Treachery and Complicity, but, not limited to these Indictable Offences

The Primary Breach (1)

Unlawful and illegal use of Judicial Power of the Commonwealth, to launch by stealth an attack on Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, Her Subjects (All Subjects inclusive of Electors) by an agreement and understanding to undertake a conspiracy by Sabotage to overthrow the Constitution of the former State of Western Australia and Constitution of the Commonwealth of Australia by non compliance with s.73.2 (g) of the Constitution Act 1889 WA

herein quoted:

"Shall not be presented for assent by or in the name of the Queen unless — (g) The Bill has also prior to such presentation been approved by the electors in accordance with this section,"

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The Primary Overt Act
The Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 WA,
The unlawful and illegal Act of permitting the Supreme Court Act 1935 WA to be
included in an Overt Act, of Treason - Treachery against Her Majesty Queen
Elizabeth the Second, Her Heirs and Successors, Her Subjects and Electors herein
quoted:

The Secondary Breach (2)

The Primary Overt Act
The Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 WA,
The unlawful and illegal Act of permitting the Supreme Court Act 1935 WA to be
included in an Overt Act, of Treason - Treachery against Her Majesty Queen
Elizabeth the Second, Her Heirs and Successors, Her Subjects and Electors herein
quoted:

Prior 1st January 2004

Second Schedule Judicial oath
"I, do swear that I will and truly serve our Sovereign Lady Queen
Elizabeth the Second, Her Heirs and successors, accordingly to law, in
the office of the Chief Justice of Western Australia [or a Judge of the
Supreme Court of Western Australia or a Commissioner of the
Supreme Court of Western Australia or a Master of the Supreme Court
of Western Australia], and I will do right to all manner of people after
the laws and usages of this State, without fear or favour, affection, or
illwill — So help me God!"

After 1st January 2004

Second Schedule Judicial oath
"I, do swear that I will and truly serve the State of Western
Australia, accordingly to law, in the office of the Chief Justice of
Western Australia [or a Judge of the Supreme Court of Western
Australia or a Commissioner of the Supreme Court of Western
Australia or a Master of the Supreme Court of Western Australia], and
I will do right to all manner of people after the laws and usages of this
State, without fear or favour, affection, or illwill — So help me God!"

The Secondary Overt Act

Supreme Court Act 1935 after amendment by s.130 of the Primary Overt Act

The Legal Right

The legal right to formally file these charges is contained in and by:

1. Commonwealth Constitution Act 1900
Section 5 (Preamble), Section 80 (Trial by Jury on Indictment)
2. Criminal Code Act 1995

Chapter 5, The Security of the Commonwealth

Part 5.1, Treason and sedition

Section 80.1 (1) (d), Section 80.1 (1) (e) (i), Section 80.1 (1) (h),
Section 80.1 (2) (a), Section 80.1 (2) (b)

Chapter 7, The Proper Administration of Government

Part 7.1, Preliminary

Section 130.3

Part 7.2, Theft and other Property Offences

Section 131.4 (1) (a), Section 131.4 (1) (b) (ii), Section 131.6 (b),
Section 131.7 (1) (b), Section 131.7 (2) (a), Section 131.9,
Section 131.10 (1) (a), Section 131.10 (1) (b), Section 132.1 (1),
Section 132.1 (5) (a), Section 132.8 (1) (a) (ii), Section 135.1 (3),
Section 135.2, Section 135.4 (3), Section 135.4 (5) (a),
Section 135.4 (7) (a), Section 135.4 (9), Section 135.4 (13)

Part 7.5, Unwarranted Demands

Section 142 (1) (ii)

Chapter 2, General Principles of Criminal Responsibility

Part 2.4, Extensions of Criminal Responsibility

Section 11.1, Section 11.2, Section 11.3, Section 11.4, Section 11.5,
Section 11.6

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3. Crimes Act 1914 (Commonwealth)

Section 46, Section 6, Section 13 (a)*, Section 15, Section 15 B,
Section 15 F†, Section 15 HB, Section 16, Section 22A†

Part II Offences against the Government

Section 24AA (1) (a) (i), Section 24AB, Section 24AC, Section 24F,
Section 28, Section 29, Section 30A (1) (b), Section 30B, Section 30C,
Section 30FC, Section 30FD, Section 30G, Section 30H

Part II Offences relating to the Administration of Justice

Section 31, Section 34 (1) (b), Section 42, Section 43, Section 44

4. Criminal Code Act Compilation Act 1913 WA

Appendix B, Preamble

Section 3 (1)

Chapter I Interpretation

1 Definition

Attorney General, Person / Owner, Public Officer, Valuable
Security, Section 4

Chapter II Parties to Offence

Section 7 (a) (b) (c) (d), Section 10 (1)

Chapter III Applications of Criminal Law

Section 15

Chapter V Criminal Responsibility

Section 22, Section 26, Section 31 (4), Section 36

* See s.5 Criminal Code 1913 WA

† Civil Proceedings [refer Judiciary Act 1903 s.58]

‡ Passport

Chapter VIII Offences against the Executive and Legislative Power
Section 54, Section 55, Section 56 (1), Section 58 (2), Section 60

5. The *Australia Acts Request Act 1985 WA* did not abide with the binding legal conditions / proviso's at section 73.2 (e) (f) and (g) Constitution Act 1889 WA

73.2) A Bill that —
(e) expressly or impliedly in any way affects any of the following sections of this Act, namely — sections 2, 3, 4, 50, 51 and 73, shall not be presented for assent by or in the name of the Queen unless —
(f) the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly, respectively; and
(g) the Bill has also prior to such presentation been approved by the electors in accordance with this section,

6. The *Australia Acts 1986* did not abide with the binding legal conditions / proviso's at section 73.2 (e) (f) and (g) Constitution Act 1889 WA
73.2) A Bill that —
(e) expressly or impliedly in any way affects any of the following sections of this Act, namely — sections 2, 3, 4, 50, 51 and 73, shall not be presented for assent by or in the name of the Queen unless —
(f) the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the

8. The *Electoral Amendment and Repeal Act 2005* did not abide with the binding legal conditions / proviso's at section 73.2 (e) (f) and (g) Constitution Act 1889 WA

73.2) A Bill that —
 (e) expressly or impliedly in any way affects any of the following sections of this Act, namely — sections 2, 3, 4, 50, 51 and 73, shall not be presented for assent by or in the name of the Queen unless —
 (f) the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the

7. The *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* WA did not abide with the binding legal conditions / proviso's at section 73.2 (e) (f) and (g) Constitution Act 1889 WA

73.2) A Bill that —
 (e) expressly or impliedly in any way affects any of the following sections of this Act, namely — sections 2, 3, 4, 50, 51 and 73, shall not be presented for assent by or in the name of the Queen unless —
 (f) the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly, respectively; and
 (g) the Bill has also prior to such presentation been approved by the electors in accordance with this section,

Legislative Council and the Legislative Assembly, respectively; and
 (g) the Bill has also prior to such presentation been approved by the electors in accordance with this section,

Legislative Council and the Legislative Assembly, respectively;
and
(g) the Bill has also prior to such presentation been approved by
the electors in accordance with this section,

9. Constitution Act 1889 WA - Sect 22

Oath or affirmation of allegiance (Broken by the Overt Act)

No member of the Legislative Council or Legislative Assembly shall
sit or vote therein until he has taken and subscribed before the
Governor, or some person authorised by the Governor in that
behalf, an oath or affirmation of allegiance in the form set out in
Schedule F.

10. Constitution Act 1889 WA - Schedule E

Oath

(Broken by the Overt Act)

I, do swear that I will be faithful and bear true allegiance to Her
Majesty Queen Elizabeth the Second, her heirs and successors,
according to law.
So help me God.

Affirmation

(Broken by the Overt Act)

I, do solemnly and sincerely affirm and declare that I will be
faithful and bear true allegiance to Her Majesty Queen Elizabeth
the Second, her heirs and successors, according to law.

11. Commonwealth Constitution Act

Preamble

WHEREAS the people of New South Wales, Victoria, South
Australia, Queensland, and Tasmania, humbly relying on the
blessing of Almighty God, have agreed to unite in one indissoluble
Federal Commonwealth under the Crown of the United Kingdom

of Great Britain and Ireland, and under the Constitution hereby established:

12. COMMONWEALTH CONSTITUTION ACT - SECT 42

Oath or affirmation of allegiance

Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution. (State Constitution subject to Superior Constitution)

13. Commonwealth Constitution Act 1900 - Schedule

Oath (Until released by Electorate this Allegiance is Binding)

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.
SO HELP ME GOD!

Affirmation (Until released by Electorate this Allegiance is Binding)
I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

14. Commonwealth Constitution Act 1900 - Sect 106

Saving of Constitutions

The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

35

15. Commonwealth Constitution Act 1900 - Sect 109

Inconsistency of laws

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

16. Statutes at Large Volume 9, 1st VIII & Mary to 8th VIII III

At Page 23 1688 Bill of Rights

And shall subscribe a profession of their Christian Belief in these words

"I, BRIAN W SHAW, Profess faith in God the Father, and in Jesus Christ his Eternal Son, the True God, and in the Holy Spirit, One God Blessed for Eternal, and do acknowledge the Holy Scriptures of the Old and New Testament to be given by Divine Inspiration"

17. All the indictable offences discovered have occurred at Perth Western

Australia during the period 1985 up to and inclusive of the present date 6th

April 2006

Stated in this information / presentation is the Statute Law enacted into the Criminal Code Act 1913 WA at Section 48.1 (g), 48.2, 48.3 quoted herein:

Criminal Code Act 1913 WA 48.1 (g), 48.2, 48.3

"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; (2) Takes any such oath or engagement, not being compelled to do so; or

"...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

MASONIC OBLIGATION / OATH SHRINERS

20. A copy of portion of the *Shriner Masonic Oath (International Freemasonry / Foreign Power)* is reproduced in this formal notice and charge

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. 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)

Masonic Oath/Obligation – Entered Apprentice

19. A copy of the First Masonic Oath binding Mr Jeffrey is reproduced in this formal notice and charge

18. The current Governor General of the Commonwealth of Australia Major General Michael Jeffrey committed the indictable offence of taking and administering an illegal oath (Masonic Oath). The Governor General a former Governor of Western Australia was initiated in St George's Lodge in Western Australia in November 1994 passed in Hale Lodge 308 in December and raised in St George's Lodge 1995

(3) Attempts to induce any person to take any such oath or engagement; is guilty of a crime, and is liable to imprisonment for 7 years.

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"])"

21. Masonic Allegiance conflicting with Constitutional Allegiance

WINE IN A HUMAN SKULL

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 3rd 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".

(Source at Page 104 Excerpt from: The Deadly Deception by Tom McKenney/ Jim Shaw)

22. The seriousness of the constitutional infractions and indictable offences discovered will only permit a State trial in the State of the Offences according to Section 80 of the Commonwealth Constitution Act 1900

Tuesday, 4 April 2006



Brian W Shaw

Box 800 Werribee
Victoria 3030

38.



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

Exhibit *The Heenan Transcript (WA)*

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 3 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

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The plaintiff appeared in person.
MR C.P. WAYTE represented the State of Western Australia.

AT PERTH ON MONDAY, 22 OCTOBER 2007, AT 10.36 AM

TRANSCRIPT OF PROCEEDINGS

HEENAN J

ATTORNEY-GENERAL FOR THE
STATE OF WESTERN AUSTRALIA

and

BRIAN WILLIAM SHAW

1955 of 2007

THE SUPREME COURT OF
WESTERN AUSTRALIA

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SHAW, MR: All of that.

HEENAN J: It was something to do about taking off a harvest.

SHAW, MR: Yes. That injunction was refused which failed to stay the possession et cetera.

HEENAN J: Yes, I have a slight recollection of this, Mr Shaw, not a very good recollection but a very slight recollection.

SHAW, MR: Thank you. Your Honour, if I could just give you the details of that. So if we go back to the Commonwealth Bank - it was Commonwealth Bank v Ridout. During the course of that the Court of Appeal permitted me to be their advocate. I think it was the year 2002 or 2003, thereabouts. During a period after that there was a time where the bank was beginning to move to take possession and still as their permitted advocate, we lodged an injunction that actually came back in front of you.

HEENAN J: Mr Shaw, I'm not quite sure what it is that you are foreshadowing. Could you excuse me? I have the current influenza and my voice is a bit strange but are you forecasting some kind of challenge to me sitting on this application, because if you are I think you should state it clearly. I realise that you want to deal with it at some other time but it does need to be stated clearly.

SHAW, MR: What I presume to do is the challenge will be first and we will set that aside then because these vexatious proceedings essentially emanate from some of the Ridout v Commonwealth Bank matter but a portion of that matter was when I was in front of you as an advocate for them relative to an injunction to that, so I will just state it for the record but leave it laying there. What I propose to do, your Honour, is - - -

HEENAN J: I'm sorry. I didn't hear what you said.

SHAW, MR: Thank you, your Honour. Probably a little bit of business first. I don't wish to make the challenge to a stand or whatever but what I presume to do is - - -

HEENAN J: Yes, very well. Yes, Mr Shaw?

WAYTE, MR: Yes, your Honour. I appear for the attorney-general.

HEENAN J: Yes, thank you. Yes, Mr Wayte?

SHAW, MR: Your Honour, I represent myself.

HEENAN J: Yes, Mr Shaw?

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HEENAN J: Yes.

SHAW, MR: That was all part of that. In actual fact, the other side stole that harvest but a writ of Mandamus did go to the High Court and it's actually still there. It has not been returned because of that particular hearing.

HEENAN J: What has all this got to do with me sitting today?

SHAW, MR: You were that judge, your Honour.

HEENAN J: I was the judge who sat on the application for an injunction.

SHAW, MR: The injunction application.

HEENAN J: Yes.

SHAW, MR: And this is only a flow-on relative to the vexatious but equally the writ of Mandamus still sits at the High Court. They have not dealt with it.

HEENAN J: But a writ of Mandamus against whom?

SHAW, MR: You.

HEENAN J: That's the first I have heard of that.

SHAW, MR: Yes, I know, your Honour. It was to hear the matter correctly but they did send one writ back, which is a writ of prohibition. That was relative to have the Court of Appeal handle it but they never sent the other one back.

HEENAN J: Unless I'm mistaken, Mr Shaw, I have never been served with any such process.

SHAW, MR: Yes. I'm just bringing it up today because it was certainly filed at the High Court but I will put that matter clearly on the record.

HEENAN J: So you don't want me to sit on this application because I sat on an application in the Ridout matter - - -

SHAW, MR: What I'm actually saying - - -

HEENAN J: - - - and because you have got a writ of application - an application for Mandamus against me in the High Court. Is that the position?

SHAW, MR: That's its essence but there's a bigger problem, your Honour. No matter whoever replaces you will walk into the same problem. Not that they have heard the matter direct or been in some form or another involved but in what will unfold in this particular hearing. Essentially the Supreme Court has removed its own

Jurisdiction. Now, whoever replaces you will walk into that same issue.

HEENAN J: What I'm trying to do at the moment is to isolate exactly what it is that you say prevents me or should result in me refusing to sit on this application. At the moment it seems to be that I sat on an application by the Ridout family for an injunction which was dismissed and that some time after that, in circumstances which I know nothing about, some kind of process was commenced against me and perhaps others and is still pending in the High Court of Australia. Is that it?

SHAW, MR: It was a writ of Mandamus, Your Honour, only naming that particular judgment.

HEENAN J: Yes, but are those the reasons why you submit I should not sit to hear today's application?

SHAW, MR: That would be correct, Your Honour, but equally I don't want to throw away the hearing because -- --

HEENAN J: No, I realise that.

SHAW, MR: -- -- I have come from Victoria to come to the hearing.

HEENAN J: I just want to be clear that I have identified and understand what are the grounds that you advance to suggest that I'm ineligible to hear this matter.

SHAW, MR: No, there would be one technical point there. If we did not serve you with that writ of Mandamus, effectively it has been filed at the High Court but not served, that would probably be a technical point which would permit the hearing to go ahead.

HEENAN J: Are those the two matters? Only those two matters?

SHAW, MR: Yes, Your Honour.

HEENAN J: Yes. I will give a written decision in due course.

SHAW, MR: Thank you, Your Honour.

HEENAN J: But I am satisfied that I should continue to sit, notwithstanding the objection that has been made. I will note the objection and, as I say, give reasons later. SHAW, MR: Thank you. Your Honour, what I wish to do or the order that I wish to do it is I will read from the notice or the grounds relative to the notice of originating motion which -- --

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SHAW, MR

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HEENAN J: Mr Shaw, I have the originating motion and I have had that for some days and have read it. This morning for the first time I received a bundle of - I think there are 46 affidavits.

SHAW, MR: Correct, your Honour.

HEENAN J: Strictly speaking, they haven't been filed in sufficient time to be heard or used on this application but I have nonetheless read them. When I say read them, I have read the content of the affidavit and I have satisfied myself of the substance of all the annexures without reading every word of each annexure.

SHAW, MR: Can I go through those?

HEENAN J: What is it that you are seeking to do on this originating motion?

SHAW, MR: I need to be able to file a document which permits me to officially file a document as a vexatious litigant.

HEENAN J: What you are seeking I take it is leave to commence proceedings under the Vexatious Procedures Act. Is that it?

SHAW, MR: Correct. That's right.

HEENAN J: So it's an application under section 6 of the Vexatious Procedures Restriction Act, leave to institute proceedings.

SHAW, MR: Correct.

HEENAN J: Yes, I understand that. And these are the proceedings which you wish to commence.

SHAW, MR: Correct, your Honour.

HEENAN J: They seem to address a distinct number of quite different matters. One is, the first mentioned, the decision of a registrar on the taxation of the bill of costs in two other actions which are presently before the court; secondly, a declaration that any order or judgment made by the registrar, presumably on those taxation costs, is void in law; and, thirdly, a declaration that the removal of the requirement for the oath of allegiance deprives Registrar Powell and other members of his court of jurisdiction, and then there is a list of the amendments and then a declaration that the act of parliament which had the effect of removing the requirement for the oath or affirmations of allegiance is void; then a declaration that an order for judgment in another matter in which Mckechnie J gave a judgment, which is one of the matters before Registrar Powell, is void in law; then a declaration that any order or judgment in yet another matter, a decision of the Court of Appeal, is void in law. That is the second matter before Registrar Powell and I take it that there has been an unsuccessful appeal from the decision of Mckechnie J. Am I right about that?

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SHAW, MR

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SHAW, MR: It was only leave to file.

HEENAN J: Well, an unsuccessful application to challenge Mckechnie J's decision.

SHAW, MR: Correct.

HEENAN J: Then a declaration that on some date in December last year Mckechnie J was a named defendant in certain proceedings in Victoria. I am not quite sure what that has got to do with the relief which you are seeking.

SHAW, MR: Can I answer that?

HEENAN J: Yes. I will give you an opportunity in a moment. Then a declaration that after a hearing in Victoria a grand jury application was lodged against Mckechnie J in the Full Court of the Supreme Court of Victoria; then in paragraph 11 that in relation to the application in the Court of Appeal and the three judges involved all three were charged and served and heard in the proceedings in the Magistrates Court in Victoria and grand jury applications lodged against them, and you are seeking a declaration that their judgment in the proceedings, which I have already mentioned, is stayed pending the grand jury determination.

SHAW, MR: Correct.

HEENAN J: Then you seek a declaration that the State Solicitor's Office of Western Australia, because of the amendment to the legislation of 2003 which you are challenging, is unable with lawful authority to seek or receive any moneys without committing a fraud; and then you seek a declaration that the Public Interest Disclosure Act of this state gives immunity against civil or criminal liability for disclosure of public interest information which includes the allegations about the alleged loss of jurisdiction because of the amendment removing the requirement of oaths of allegiance to the crown. Have I understood that correctly?

SHAW, MR: Correct, your Honour.

HEENAN J: Then you seek a declaration that under the Public Interest Disclosure Act, which I have already mentioned, any type of reprisal is an offence, and you draw attention to certain provisions in that act. Then you refer to the Commonwealth Crimes Act, section 44, dealing with compounding offences, which you simply mention. Then you refer in paragraph 16 to the Commonwealth of Australia Constitution and the provision in the constitution that the act and all laws of the Commonwealth are binding upon all courts, judges and people of every state and territory within the Commonwealth.

Then you refer to the provisions of section 80 of the Commonwealth Constitution that the trial on indictment for any offence against any law of the Commonwealth must be by a jury. Then you make reference to section 106 of the Commonwealth Constitution saying that the constitution of each of the states is subject to the constitution but otherwise shall continue as at the establishment of the Federation.

Then you make reference to the Western Australian Constitution Act section 73 with a provision setting up the state parliament. I won't read them all as they are extensive, then you refer to section 128 of the Commonwealth Constitution dealing with the only means permitted of altering the Commonwealth Constitution by a referendum, an act of parliament.

Then you refer to paragraph 21 - I'm sorry, in paragraph 21 you make reference to the oath of allegiance prescribed by the Commonwealth Constitution and then in paragraph 22 you seek a declaration that this matter, presumably this litigation, be administered by the Federal attorney-general's department so that there is an opportunity to take advantage of a scheme for providing costs for public interest litigation.

SHAW, MR: There is a fund there, your Honour.

HEENAN J: Then you make reference to section 6 of the Australia Act and the manner and form provision relating to state law. Then you seek a declaration that the 2003 Western Australian Act dealing with the removal of the need for the oath or affirmation of allegiance is completely void in law but the legal ramifications of such act leave only two courts open to address the legal ramifications, the grand jury in Victoria and the law of the House of Lords in England.

Mr Shaw, the impression I am getting from this, and it's only an impression and I invite you to correct it or amplify it if I am doing your approach any injustice - what it seems that you are really wanting is an authoritative judicial decision that the passage of the act of parliament in Western Australia, 65 of 2003, the Acts Amendment and Repeal (Courts and Legal Practice) Act is invalid and void and that as a consequence of that no judges, judicial officers or courts who have acted in pursuance of that law retain any jurisdiction or authority. Am I correct about that?

SHAW, MR: Correct, your Honour.

HEENAN J: The problem as I see it is first of all there are decisions of McKechnie J and the Court of Appeal rejecting that argument which have been made against you

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and in the ordinary course the only avenue open to you would be to see to appeal from the decision of the Court of Appeal. That's the first point.

The second point, and I think you have already alluded to this when dealing with the objection, is that if you are right in this argument that you have then neither nor any other judge of this court has the power to deal with your application. Is that right?

SHAW, MR: Totally. I didn't do it, your Honour. I mainly uncovered it.

HEENAN J: Nobody is suggesting you did anything, Mr Shaw.

SHAW, MR: Thank you.

HEENAN J: I am limited by the requirements of the Vexatious Proceedings Act and the situation is that I am required to dismiss your application.

SHAW, MR: Your Honour, may I be heard?

HEENAN J: Yes, of course. I'm just drawing your attention to some apparent obstacles but I am required to dismiss your application if the proceedings are vexatious or there is no prima facie ground for the proceedings and at the moment it seems to me that you have two decisions of this court directly in your way, that is the decision of Mckechnie J and the decision of the Court of Appeal and I'm not sitting on appeal from those decisions. Anyway, I have been speaking for long enough and you certainly are entitled to be heard.

SHAW, MR: Your Honour, what I will do is, because of the point that you've raised from where it is now at I intend to read just the essence of some of those affidavits and prior to that I will come back to the Western Australian Constitution.

HEENAN J: Mr Shaw, there is a limit to which you can be heard on an application like this. You need to indicate to me what your answer is to the obstacles which I have identified because if you haven't got an arguable answer to those obstacles I think the door is shut against you.

SHAW, MR: Your Honour, the act we're actually talking about is the Acts Amendment (Repeal Courts and Legal Practice) Act purportedly enacted on January 1 2004. That act also amended the Supreme Court Act. Now, under the Western Australian Constitution, under section 73 - - -

HEENAN J: Mr Shaw, I understand what you say about that legislation. I have read the decisions in Mckechnie J's reasons and I have read your papers and so on. I know what

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SHAW, MR

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you say about that but the problem is that your arguments have already been rejected by two considered decisions of this court and you are asking me for leave to start the process going again. Why should you be permitted to do that?

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SHAW, MR: First off, your Honour, it's a maxim in law, two maxims: number 1, a judge cannot be a judge in their own cause; number 2, fraud vitiates everything. They are the two big maxims of law. In essence, when the Supreme Court - - -

HEENAN J: Why do you say that McKechnie J, or for that matter the judges of the Court of Appeal, were judges in their own cause when they were considering the validity of an act of parliament? Judges do that all the time.

SHAW, MR: The problem is, your Honour - I'm well aware of that. Except for when - and in this instance their own Supreme Court Act - threw the Queen out of the act. Now, the moment that that happened - and with respect to this court and to yourself - you actually became the offender because under section 73(6), subsection (6), any elector - and that would include any judge, registrar or master - has the right to take an injunction against that particular thing.

So you could have as an independent person just simply said: if you go ahead with that act you will invalidate my authority as a Supreme Court judge. So just protect your own career and standing, the injunction should have just been filed under that section. Any politician could have lodged it. We are actually the only ones who ever lodged an injunction under that section. It sits sine die out of the Ridout matter by Le Miere J but the section which that acts would have had to confine itself and do was totally breached in your constitution.

The section says - and if I can read the section. Under section 73(2), and I will read (e), (f) and (g): Expressly or implicitly in any way affects any of the following sections of this act, namely -

and there's six sections named here, your Honour - sections 2, 3, 4, 50, 51 and 73. Those six sections have binding conditions immediately following here: shall not be presented for Royal Assent by or in the name of the Queen unless -

now, the first condition is in (f) and the High Court has already changed this condition in the Marquet matter from that but it says:

the second and third readings of the bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Counsel and Legislative Assembly respectively -

and the big one is the next one, (g) :
The bill has also prior to such presentation been approved by the electors in accordance with the section.
The electors never saw it. "And a bill" - and here's where the two big - the big structure happened:

And a bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an act.
Your Honour, the State of Western Australia has gone and rewritten the law books on that act.
HEENAN J: Mr Shaw, I do understand your argument about this.

SHAW, MR: It's the law.
HEENAN J: But the decisions of this court are that this legislation was not affected by those requirements and that it is valid. Now, if you want to challenge that further, it would seem to me that the obvious and perhaps only avenue for you to pursue is an application to the High Court of Australia.

SHAW, MR: Are you fully aware of how the High Court conducts itself today?
HEENAN J: I'm not sure what you imply by that remark, Mr Shaw, but I - - -
SHAW, MR: I'm happy to put it on record.
HEENAN J: I have had a very extensive experience of the High Court. Australia when I was in practice over some 20, 30 years.

SHAW, MR: But I'm talking about today, Your Honour, and I will give you a little bit of - you have to pay 2 and a half thousand odd dollars to file it to High Court. At some point or another you have to tick the 20 minute box in that application and stand on your feet. Usually two days before the date they fax you or ring you to say your matter will be heard in the High Court on such and such a date, you have no need to be in attendance and you will be informed on the Internet of the judgment.

Now, as you look on each day's - usually there's 10 or 12 on a list, each day has special leave to appeal dismissed on every one. So what the High Court is doing today is in effect working as a closed court and giving judgments on the Internet. Now, any Australian who would permit the High Court to work in that capacity I wouldn't

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SHAW, MR.: Your Honour, with respect, yes, you did because you permitted the Supreme Court Act to be amended. Now, anyone, even if you're running a law firm, you would be - - -

HEENAN J.: Mr Shaw, the amendment repeal or re-enactment of the laws of this state lies with parliament, not with the courts.

SHAW, MR.: No, your Honour. When they included your act, the Supreme Court Act, that trespassed into separation of powers and at that point somebody from this court should have said, excuse the expression, "I'll say it as a farmer, "Get the hell out of that territory" because it bridges the separation of - it destroys it. Your act, the Supreme Court Act, should never have been allowed into that act, never, and not only has it removed your right to sit - - -

HEENAN J.: But parliament can and does amend the Supreme Court Act from time to time and - - -

SHAW, MR.: Your Honour, this time they threw the Crown out. That is a breach of allegiance. That in the legal history books is treason. Who introduced the bill? The attorney-general of Western Australia, an *unarticled clerk*. Now, I say that quite specifically because I didn't say it. Sue Walker said it in Hansard in the Western Australian parliament, that Mr Jim McGinty never finished his articles and if he wished to come down to my law firm for a year he can come down there. So in essence what we have is an unarticled clerk who has chucked out the crown and the Queen. Every articled clerk working in Western Australia right now wouldn't know they had that capacity. They would think they have to finish the year out.

HEENAN J.: But the Queen has not been removed from the system of government in Western Australia.

SHAW, MR.: Your Honour, read that act.

HEENAN J.: I have read the provisions to which you have directed my attention.

SHAW, MR.: Your Honour, you threw her out, removed.

HEENAN J.: Mr Shaw, we still have a governor. The governor is appointed by the Queen.

SHAW, MR.: Your Honour, with respect, the Australia Act altered that in 1986.

HEENAN J.: The governor, as I understand it, is appointed by the Queen on the advice of - - -

SHAW, MR.: Your Honour, it all changed in 1986.

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SHAW, MR

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HEENAN J: - - - her Australian representative.

SHAW, MR: It all changed in 1986 because under the Australia Act, and the Australia Act creates an enormous problem for Western Australia because under the Australia Act, and it's in this part of the constitution, it actually says this as the beginning:

They chose to use section 51 subsection (38) to remove the Queen -

but they should have used section 128 and it's quite clear here what section they used but in section 14 of the Australia Act it says Amendment of Constitution Act of Western Australia. That section amends sections 50 and 51. Now, when you pick up the Commonwealth Constitution under section 106 it states this, and I'll read the section so I don't misquote it:

The constitution of each state of the Commonwealth shall, subject to this constitution -

so you are subject to this -

continue as at the establishment of the Commonwealth or has the omission or establishment of the state as the case may be until altered in accordance with the constitution of the state.

Now, altered in accordance with the constitution is section 73(2)(g) and when we come back to the Australia Act it amends sections 50 and 51 at section 14 of the Australia Act. Once it does that it automatically is confined to abide by the two sections in your constitution: number 1, absolute majority; number 2, give it to the electors. None of that happened with the Australia Act, none of that happened at the Acts Amendments (Repeal Courts and Legal Practice) Act and once you interfere with the oath of allegiance, in legal terms, *treason*.

We have never had a treason matter in Australia. Nobody even knows where to look but I would suggest they start to look. You had the best constitution in the country relative to protecting the elector but what has happened here? The oath of allegiance has been completely aborted and substituted with something else.



Now, when they say in the Australia Act they introduce new letters patent et cetera, and it actually says to serve us. The problem is, your Honour, "us" is not defined in any interpretation act. We don't know who it is but did they have to abide by section 73 in 1986? What happens after that? It purportedly gave every state governor a purported right to do Royal Assent to bills that would have needed reservation, so they just went ahead and started signing. The problem is they didn't have correct jurisdiction so in this particular act, Acts Amendment (Repeal Courts and Legal Practice) Act, that was signed by both the governor and Mr McGinty on the enactment they had no jurisdiction whatsoever, as in lawful jurisdiction, they broke the law, but as the breach one that we could sort of say "Let it go through to the keeper" or did a civil and criminal issue activate from the breach and is the breach fraud or, at the top line, is the breach treason?

Your Honour, with respect, fraud could probably be-handled by most courts. Treason can't because in all the precedents of law relative to treason in Australia that is grand jury exclusively. Your Honour, if you wish I can have some grand jury authorities that I could tender, if you wish.

HEENAN J: No, at the moment I'm still trying to focus on why you say you should be permitted to commence proceedings which in effect challenge final decisions of this court.

SHAW, MR: *Two maxims*, your Honour. Number 1, a judge in his own cause, the judgment is void automatically. Number 2, fraud vitiates everything. Number 3, treason is involved and what the other side is saying to me is, "Pay the money and shut your mouth and get out of our state," as in, do not uncover what has occurred here because the average electorate, and I will repeat the words, is basically a simperton in relation to this sort of law. It is beyond them, but it's not beyond the lawyers that made it happen and it's not beyond the lawyers that are continuing to let it happen.

The Australia Act required an electoral consent from the electorate of Western Australia in 1986. It then altered the whole framework of Australia fraudulently. It then went on to purportedly give the governor-general and all governors an authority that they had not got legally and they have gone on to do bills that should have been reserved and done its correct Royal Assent and they have breached the confining section at the preamble. Section 5 defines all judges, courts and people relative to the act. The Commonwealth Constitution is both a UK Act and an act of the Commonwealth Parliament. It's a combination of things. We can't just take bits and pieces and throw it out.

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HEENAN J: Just tell me what it is.

SHAW, MR: I haven't numbered them so it's going to be difficult but they should be in order and I will try to find it.

HEENAN J: Yes. Which is the one you want to refer to?

SHAW, MR: Thank you. Could I refer to that particular one?

HEENAN J: I will take all the affidavits as being relied on.

SHAW, MR: I do, your Honour.

HEENAN J: If you want - you just tell me whether you want to rely on them or not.

SHAW, MR: Thank you. Is that acceptable?

HEENAN J: Yes.

SHAW, MR: On the record?

HEENAN J: I'm treating all these affidavits as being on the record. Is that what you want me to do?

SHAW, MR: It deals with the section. I think it should be placed on record.

HEENAN J: What do you mean?

SHAW, MR: Your Honour, can I read the affidavit relative to part 8 of this stat?

HEENAN J: Mr Shaw, as I say, you keep verging into this question of your argument about why you say your submissions about the invalidity of this law are correct but I keep coming back to the question of why should you be permitted to advance this argument when it has already been decided against you?

SHAW, MR: Correct. What is actually happening is that there are checks and balances in here so what the government or the state of Western Australia is saying - - -

HEENAN J: And it was passed before the Commonwealth parliament was created.

SHAW, MR: Correct, your Honour.

HEENAN J: It's an act of Commonwealth parliament and it's an act of the Imperial parliament.

SHAW, MR.: It's affidavit number 40 but it will be seventh from the bottom of the stack and it will be part 8. HEENAN J.: Just a moment. Is that your affidavit annexing --

SHAW, MR.: It annexed part 8, your Honour.

HEENAN J.: -- part of the -- part 8, yes.

SHAW, MR.: If I could just take you to section 130 of that act.

HEENAN J.: Just for the transcript, I am now attending to an affidavit of Mr Shaw sworn 16 October which annexes what appears to be a computer printout of portion of the Acts Amendment (Repeal Courts and Legal Practice) Act 2003, WA, Part 8.

SHAW, MR.: Correct, your Honour. I take you to section 130 of the act, which is on the bottom of the right-hand side page 6.

HEENAN J.: Yes.

SHAW, MR.: At page 7 of that the sections that are amended. This specifically deals with the Supreme Court Act of Western Australia and coming back to the legal fact that treason is breach of allegiance by Kings Bench 1918. Section 4 is amended, and I won't go every word:

Action by deleting "Crown"; caused by deleting "Crown"; section 9 -- --

HEENAN J.: You have referred me to Sir Roger Casement's trial. That was the man who was convicted for treason for conspiring with the German government during war time and smuggling arms into Ireland with a view to promote a local insurrection against the Crown.

SHAW, MR.: Correct. All I'm actually saying out of that matter is *Kings Bench* had to define treason and all they defined there in that matter was *Breach of Allegiance*

HEENAN J.: Conspiring with the King's enemies was treason.

SHAW, MR.: Thank you. Section 9, and I will put subsection (1) only for the point of the record, is amended by deleting "her Majesty" and inserting instead "the Governor". Your Honour, automatically you have a problem with section 50 of your constitution because that's the office of the governor. The moment you touch section 50, under section 73(2) "must go to the elector".

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HEENAN J: But the Queen has not been removed from the Constitution of Western Australia. Her name may have been taken out of certain provisions dealing with legal procedure and - - -

SHAW, MR: Not allowed to, your Honour - - -

HEENAN J: - - - and with other courts - - -

SHAW, MR: - - - without breaching your state referendum requirements.

HEENAN J: - - - but her Majesty remains the formal head of government.

SHAW, MR: Even this thing - your Honour, you're not allowed to do this without the electoral consent. That's section 73(2).

HEENAN J: Here we are again, Mr Shaw. You say that and - - -

SHAW, MR: Your act says that.

HEENAN J: - - - I understand why you say that but the point that you're making has already been considered and rejected by other judges.

SHAW, MR: No, your Honour. It has to be rejected by - amending and taking our her Majesty every Supreme Court judge in this country states - - -

HEENAN J: Mr Shaw, I think we have arrived at this point: that I am fairly confident that I understand your argument and I have read these materials and I have offered you three or four opportunities now to indicate to me how you propose to overcome these particular obstacles. I will give you one last opportunity to do that and then I will call on Mr Wayte for the respondent because, as I said, I am not permitted on this occasion to examine whether or not your argument is correct or not. That has already been decided. I have got to inquire into whether you have shown sufficient reason to allow this argument to have a third outing.

SHAW, MR: What you actually said during the course of it, you actually said that if I'm right - if I'm right - no bench has jurisdiction in Western Australia.

HEENAN J: Yes, I did say that.

SHAW, MR: Thank you. I think I'll rest on that.

HEENAN J: Very well. Yes, Mr Wayte?

SHAW, MR

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WATTE, MR: By whatever means all avenues of legally challenging or raising these points have been exhausted then in this country.

HEENAN J: Yes, Mr Watte?

SHAW, MR: No. The document was filed on January 2. They are saying the other document should have been filed on that day too. The documents were filed.

HEENAN J: You were unable to challenge the matter in the High Court because you were out of time.

SHAW, MR: No, your Honour. Only the Federal Court will take stuff here for the High Court. We filed it on January 2. It was done on January 2 via my friend here behind me. That was in time but the originating document which had to follow in came two days after in the post and on that two-day delay the High Court said, "It's not coming in. We're not hearing it." Thank you.

HEENAN J: There is a registry at the High Court.

SHAW, MR: No. What actually happened was that the date of out of time, or whatever due time, was January 2. Everything is shut on January 2 inclusive back home. I live back in Melbourne and you don't have a High Court here. It's got to go through the Federal Court here.

HEENAN J: You applied for special leave and - - -

SHAW, MR: The High Court's decision wasn't - there was no decision relative to this from the High Court. I will just give you the issue that happened there. Number 1 - - -

HEENAN J: Yes, you may.

SHAW, MR: I'm sorry, your Honour, can I just interject there for one minute to fix a technicality? Sorry.

WATTE, MR: Sir, I don't think I can say more than what you said, that these are all points which have been litigated at first instance before Braddock C, before McKechnie J, before the Court of Appeal and, as I understand it, in a failed application for special leave to appeal to the High Court against the Court of Appeal's decision. All those avenues have now been exhausted.

HEENAN J: I think that is Mr Shaw's strongest point.

WATTE, MR: I have to ask the question "Why are we here then there is no jurisdiction and our appearance today is pointless and so is anything we do." because if Mr Shaw is right and he is sure he is

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JS

HEENAN J: It is a lot more than that, Mr Wayte. Mr Shaw seems to be to be attempting by these proceedings to raise the issue of substance about the validity of the Acts Amendment and Repeal (Courts and Legal Practice) Act of 2003 and the power and jurisdiction of all judicial officers that have acted in relation to any of these matters since then under the amended legislation and in the process to have declared void, as he puts it, earlier decisions of this court.

WAYTE, MR: It seems to me, your Honour, that on a literal reading of section 6 of the Vexatious Proceedings Restriction Act that these proceedings are vexatious in that sense. They are an attempt to re-litigate issues which have been re-litigated at numerous times before and I have no doubt litigated in other states, in Victoria, as well. If there was any ground whatsoever for the application itself, which is a - and we have simply not even addressed that. We are here today because Mr Shaw challenges the taxation of a registrar of two earlier matters. There is nothing - - -

HEENAN J: Just a minute, Mr Shaw. It is not necessary for you to interject at every point you have a contrary submission to make or an answer to give. You will be given an opportunity. Please continue, Mr Wayte.

SHAW, MR: The grand jury doesn't eliminate that.

HEENAN J: Just - - -

SHAW, MR: Sorry, your Honour, I'd like to interject on that one.

WAYTE, MR.: That's correct, your Honour, including I suspect or I guess in point - - -

HEENAN J.: If looked at in that way it is to circumvent the process of appeal.

WAYTE, MR.: Yes, exactly. That's right.

Because to succeed in what he is seeking to establish he needs to have at least two decisions, perhaps three or more decisions of this court, overturned.

WAYTE, MR.: That's correct. It would then go to the issue to overturn everything right from the very beginning but of late the certificate of taxation or the two certificates of taxation.

HEENAN J.: Yes, but the certificates of taxation, though no doubt important, seem to me to be small feed as far as Mr Shaw is really concerned.

WAYTE, MR.: Absolutely and if that's right then we can't go past the position that we're here arguing over issues which have been litigated before and determined against the applicant and I don't think I can say anything more than that. It is improper for him to attempt to raise them again before your Honour and they are in that sense vexatious and there is no reasonable prospects of success for them and this application ought be dismissed.

HEENAN J.: Yes, very well. Yes, Mr Shaw? You have your right of reply.

SHAW, MR.: Thank you. In relation to the vexatious issue, it is clearly stated in law that no-one can be declared vexatious if there is no question of law or fact still left at the end of the tunnel undiscovered. In relation to the High Court application, I have already interjected on that point.

In relation to "Mr Shaw seems to have exhausted all avenues within Australia," I haven't even started, your Honour. Number 1, it's a guaranteed constitutional right under section 80 of the Commonwealth Constitution for a trial by jury on indictment. The Commonwealth director of public prosecutions, Mr Damian Bugg, is the co-applicant in this vexatious writ in Western Australia, which automatically implicates the whole of the Commonwealth because when you go back and look at the Acts Amendment (Repeal Courts and Legal Practice) Act when it substitutes, amends various points it says "the state and/or the Commonwealth" so the Commonwealth -- and that's why Mr Damian Bugg showed up on the writ -- is part of this, and I will use the words, specific treason and treason can only be handled by grand jury. Grand jury just deals with the

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indictment, it doesn't deal with the trial, but it grants the right.

It's as simple as this: grand jury would just simply say to me, "Mr Shaw, you're an absolute idiot. Go away and shut the door," or "You are absolutely correct and here is your indictment." Suddenly every person named in Western Australia is indicted. I don't want that. Commonsense says, and someone has got jurisdiction, give it a trial of the issues. I'm quite happy with that but nobody wants it but to say this is not a clear breach of section 73(2) of the Western Australian Constitution, which was placed there as late as 1978, is not correct in law. It is a clear breach.

To say that it is not a breach of section 6 of the Australia Act is incorrect in law. It is a clear breach. To say that the Australia Act permitted a new letter patent and purported Royal assent capabilities is void in law because it did not abide with section 109 of the Commonwealth Constitution and section 128 of the Commonwealth Constitution and neither did it abide with section 73. Thank you, your Honour.

HEENAN J: Mr Shaw, in your submissions to me a few moments ago you said that Mr Bugg was a party to the vexatious proceedings.

SHAW, MR: Yes, your Honour. He is that "and/or other". He is the second - - -

HEENAN J: Were you intending to submit to me that the Commonwealth DPP was the applicant to have you made a vexatious litigant?

SHAW, MR: Yes, your Honour. He is the applicant on that writ with Mr McGinty.

HEENAN J: So when were you declared a vexatious litigant? WATTE, MR: I can help you, your Honour. The order was made against Mr Shaw, if I remember correctly, 23 December 2004. I will just double-check that. 23 December 2004, yes.

HEENAN J: Do you have the number of the proceedings? WATTE, MR: CIV 2264 of 2004 and the Commonwealth DPP was the second applicant in that matter. It was a joint application by the attorney-general and the Commonwealth DPP.

HEENAN J: The state attorney-general and Commonwealth DPP.

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(Judgment delivered)

HEENAN J: Yes, very well.

Number 1, it is a maxim in law that the judge cannot be a judge in his own cause. That's occurring today. Number 2, fraud vitiates everything. Now, fraud, just to come to one point of fraud, is the decline or refusal of a legal right. That's fraud. That's certainly what has occurred here. The only reason they made me vexatious, your Honour, and that's all under appeal and still going through its process, but it was to put a fetter on what was occurring and the discovery of what had occurred. I don't mind the label, but it certainly creates a contest. But in the contest I have the right to be heard on one side by an impartial bench. Your Honour, in the state of Western Australia that's impossible. Thank you.

If the Australians wish to continue to leave the DPP in that capacity they are absolute fools, but the moment that he makes the application to decline to present, the right under section 354 of the Crimes Act 1958 of Victoria, the right to a grand jury automatically activates. That's what is activated out of here, even though these are what you call matters being - no, it's the state - I will finish with two final points and reiterate it.

A transcript of these reasons is being taken. I will take the opportunity afterwards to correct it as to matters of grammar and any other minor inconsequential provisions and a written copy of the reasons will be made available to you, Mr Shaw, and to the state solicitor's representative in due course but the order of the court today is that the application is dismissed. Yes, Mr Wayte?

WAYTE, MR: Your Honour, I seek an order also that the applicant pay the defendant's costs of the matter as well. We would invite your Honour, subject to what my friend might say, to fix the costs simply generously to him at \$350 to save any more procedural taxations of costs.

HEENAN J: Mr Shaw, do you wish to make any submissions about this?

SHAW, MR: That was an exceptional offer but is it a bribe? I will (indistinct) down, your Honour.

HEENAN J: Mr Shaw, I don't think there is any reason to treat it as a bribe. It does seem to me to be a generous offer - - -

SHAW, MR: Exceptionally generous.

HEENAN J: - - - and as far as I'm concerned it is available for acceptance without any compromise or prejudice to any rights of appeal or challenge which you may have.

SHAW, MR: On that behalf, your Honour, I accept that. Thank you.

HEENAN J: Yes. Am I correct, Mr Wayte, in interpreting that offer as being entirely without prejudice to any rights of appeal or other review?

WAYTE, MR: That's correct, your Honour.

HEENAN J: Yes. There will be an order that Mr Shaw pay the costs of these proceedings fixed at \$350 by agreement. The court will adjourn.

AT 11.54 AM THE MATTER WAS ADJOURNED ACCORDINGLY

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Spark & Cannon

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AT 11.54 AM THE MATTER WAS ADJOURNED ACCORDINGLY

22/10/07
11.52



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

Exhibit Amendments about the Crown

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 4 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of an Application by Brian William Shaw
And
IN THE MATTER of the Crimes Act 1958

Acts Amendment and Repeal
 (Courts and Legal Practice) Act 2003
 (No. 65 of 2003)

Part 8 — Amendments about the Crown

121. *Bail Act 1982* amended

(1) The amendments in this section are to the *Bail Act 1982*.*

[* 27 August 1999.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 27 and Acts Nos. 6 and 27 of 2002.]

(2) Section 3(1) is amended by deleting the definition of "prosecutor" and inserting instead —

"prosecutor" includes —

(a) in the case of an offence charged in a complaint, the complainant;

(b) in the case of an offence charged in an indictment, the State or the Commonwealth, as the case may be;

(3) Each of the provisions in the Table to this subsection is amended by deleting "Crown" in each place where it occurs and in each case inserting instead —

"State".

Table

s. 19(2)(b)	s. 58(1)
s. 49(1)	s. 58(2)
s. 49(3)	s. 59 (2 places)
s. 57(1)	Schedule 1 Part D cl. 1(2)(e)
s. 57(3)	

(4) Section 63 is amended by deleting "Crown" and inserting instead —

"State or the Commonwealth".

122. *Children's Court of Western Australia Act 1988* amended

(1) The amendments in this section are to the *Children's Court of Western Australia Act 1988*.*

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(3) Section 581 is amended by deleting "Crown" in the 2 places where it occurs and in each place inserting instead —

s. 577 (2 places)	s. 632A
s. 616(1)	s. 646
s. 617A	s. 651A(5)
s. 618(3)	

Table

"prosecutor"

(2) Each of the provisions in the Table to this subsection is amended by deleting "Crown" in each place where it occurs and in each case inserting instead —

[* 9 February 2001 as the Schedule to the Criminal Code appearing as Appendix B to the Criminal Code Compilation Act 1913.
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6, 8 and 27 of 2002.]

(1) The amendments in this section are to *The Criminal Code*.*

123. *The Criminal Code* amended

"the State of Western Australia"

(6) Schedule 1 is amended by deleting "our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors" in the 2 places where it occurs and in each place inserting instead —

(5) Section 32(4) is amended in the definition of "public authority" by deleting "the Crown in right of".

"State"

(4) Section 32(2)(a)(1) is amended by deleting "Crown" and inserting instead —

(3) Section 19E is amended by deleting "the Crown in the right of".

"State"

(2) Section 19B(4)(b) is amended by deleting "Crown" and inserting instead —

[* 25 August 2000.
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 51 and Act No. 27 of 2002.]

- " State " .
- (4) Section 584(14) is amended by deleting "Her Majesty" and inserting instead — " the State " .
- (5) Section 609 is amended by deleting "Crown" and inserting instead — " State or the Commonwealth " .
- (6) Section 628 is amended as follows:
 - (a) by deleting "Crown" in the first and third places where it occurs and in each place inserting instead — " prosecutor " ;
 - (b) in paragraph (2) by deleting "Crown" and inserting instead — " State or the Commonwealth, as the case may be, " .
- (7) Section 633 is amended by deleting "Crown" and inserting instead — " State or the Commonwealth, as the case may be, " .
- (8) Section 637 is amended by deleting "counsel for the Crown" in the 4 places where it occurs and in each place inserting instead — " prosecutor " .
- (9) Section 693A(4) is amended by deleting "Crown" and inserting instead — " State " .
- (10) Section 701(2) is amended by deleting "for the Crown thereon" .
- (11) Section 720 is amended by deleting "Queen" and inserting instead — " State " .
- (12) Section 729(3) is amended by deleting "Crown" in the 3 places where it occurs and in each place inserting instead — " prosecution " .
- (13) Section 746A(1) is amended as follows:
 - (a) by deleting "prosecution" and inserting instead — " State " ;

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" the Governor "

(4) Section 11(1) is amended by deleting "Her Majesty" and inserting instead —

" under the Public Seal of the State "

instead —

(3) Section 10(1) is amended by deleting "in Her Majesty's name" and inserting

(b) in the definition of "cause" by deleting "by the Crown";

(a) in the definition of "action" by deleting "by the Crown";

(2) Section 6 is amended as follows:

[* 19 January 2001.
For subsequent amendments see 2001 Index to Legislation of Western Australia,
Table 1, p. 103 and Act No. 23 of 2002.]

(1) The amendments in this section are to the District Court of Western Australia Act
1969*.

125. District Court of Western Australia Act 1969 amended

" State "

(2) Section 10(1)(a) is amended by deleting "Crown" and inserting instead —

[* 1 June 2001.
For subsequent amendments see 2001 Index to Legislation of Western Australia,
Table 1, p. 100 and Act No. 27 of 2002.]

(1) The amendments in this section are to the Director of Public Prosecutions Act
1991*.

124. Director of Public Prosecutions Act 1991 amended

" State "

(14) Section 746A(4) is amended by deleting "Crown" and inserting instead —

" State "

(b) by deleting "Crown" and inserting instead —

(5) Section 18A(1) is amended by deleting "in Her Majesty's name" and inserting
instead —

" under the Public Seal of the State "

(6) Section 18A(3) is amended by deleting "in Her Majesty's name" and inserting
instead —

" under the Public Seal of the State "

(7) Section 24(1) is amended by deleting "in Her Majesty's name" and inserting
instead —

" under the Public Seal of the State "

(8) The Schedule is amended by deleting "our Sovereign Lady Queen Elizabeth the
Second Her Heirs and Successors" in the 2 places where it occurs and in each place
inserting instead —

" the State of Western Australia "

126. *Family Court Act 1997* amended

(1) The amendments in this section are to the *Family Court Act 1997*.*

[* *Act 40 of 1997.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia,
Table 1, p. 124 and Acts Nos. 3 and 25 of 2002.]*

(2) Schedule 1 item 1 is amended by deleting "Her Majesty Queen Elizabeth the
Second, Her heirs and successors" in each place where it occurs and in each place
inserting instead —

" the State of Western Australia "

127. *Juries Act 1957* amended

(1) The amendments in this section are to the *Juries Act 1957*.*

[* *3 July 2000.*

(2) Section 38(1) is amended by deleting "those prosecuting for the Crown" and
inserting instead —

" the prosecution "

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[* 9 February 2001.
For subsequent amendments see 2001 Index to Legislation of Western Australia,
Table 1, p. 370 and Act No. 23 of 2002.]

(1) The amendments in this section are to the *Supreme Court Act 1935*.*

130. *Supreme Court Act 1935* amended

" State "

inserting instead —

(2) Section 3 is amended in the definition of "Minister" by deleting "Crown" and

[* 12 January 2001.]

(1) The amendments in this section are to the *Local Courts Act 1904**.

129. *Local Courts Act 1904* amended

" State "

(4) Section 206D is amended by deleting "Crown" and inserting instead —

" State "

(3) Section 154A(3) is amended by deleting "Crown" and inserting instead —

" State "

and in each place inserting instead —

(2) Section 154A(1) is amended by deleting "Crown" in the 2 places where it occurs

[* 8 October 2001.
For subsequent amendments see 2001 Index to Legislation of Western Australia,
Table 1, p. 193 and Act No. 27 of 2002.]

(1) The amendments in this section are to the *Justices Act 1902**.

128. *Justices Act 1902* amended

" prosecution "

(3) Section 52(1) is amended by deleting "Crown" and inserting instead —

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" the State of Western Australia "

(12) The Second Schedule is amended by deleting "our Sovereign Lady Queen Elizabeth the Second, Her Heirs and successors" and inserting instead —

" State "

(11) Section 154(3), (4), (5) and (6) are each amended by deleting "Crown" in each place where it occurs and in each place inserting instead —

" The "

(10) Section 154(1) is amended by deleting "Her Majesty's" and inserting instead —

(9) Section 119 is amended by deleting "to Her Majesty or any of her subjects, or other persons entitled in like manner as subjects".

(8) Section 56(1) is amended by deleting "by the Crown".

(7) Section 51(1) is amended by deleting "by the Crown".

(6) Section 50(1) is amended by deleting "by the Crown".

(2) Nothing in this section shall alter the practice in proceedings in relation to the prerogative and criminal jurisdiction of the Court.

"

(5) Section 37(2) is repealed and the following subsection is inserted instead —

" armorial bearings of the State "

(4) Section 15(1) is amended by deleting "Royal Arms" and inserting instead —

" the Governor "

(3) Section 9(1) is amended by deleting "Her Majesty" and inserting instead —

(b) in the definition of "Cause" by deleting "by the Crown".

(a) in the definition of "Action" by deleting "by the Crown";

(2) Section 4 is amended as follows:

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Assisting
 9 December 2003
 Parliament 23 December 2003
 Parliament 1 January 2004

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GOD SAVE THE QUEEN !

J. A. MCGINTY, Attorney General

By Command of the Governor,

Given under my hand and the Public Seal of the State on 23 December 2003.

I, the Governor, acting under section 2 of the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003*, and with the advice and consent of the Executive Council, fix 1 January 2004 as the day on which that Act comes into operation.

WESTERN AUSTRALIA	By His Excellency Lieutenant General John Murray Sanderson, Companion of the Order of Australia, Governor of the State of Western Australia	Governor. [L.S.]
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PROCLAMATION

AA201
 ACTS AMENDMENT AND REPEAL (COURTS AND LEGAL PRACTICE) ACT 2003
 65 of 2003

GOVERNMENT GAZETTE
 Western Australia
 Previous Close Next

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

Exhibit Criminal Charges

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 5 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

IN THE SUPREME COURT OF VICTORIA
FULL COURT - CRIMINAL JURISDICTION
No of 2009



7/8

1. Mr James Andrew McGinty - Attorney-General of Western Australia (U02933170);
2. Mr John James Mansell Bowler - Minister for Resources of Western Australia (U02927065);
3. Mr Robert Cook QC - Director of Public Prosecutions of Western Australia (U02925909);
4. Chief Justice Wayne Stewart Martin of the Supreme Court of Western Australia (U2920310);
5. Justice Christine Ann Wheeler of the Supreme Court of Western Australia (U02931887);
6. Justice John Roderick McKechnie of the Supreme Court of Western Australia (U02936386);
7. Justice Christopher James Lonsdale Pullin of the Supreme Court of Western Australia (U02931628);
8. Justice Michael John Buss of the Supreme Court of Western Australia (U02932188);
9. Ms Audrey Gillian Braddock SC - the then Commissioner of the Supreme Court (U02931865);
10. Registrar Corryn Rayney of the Supreme Court of Western Australia (U02933691);
11. Mr Robert Mitchell - Senior Assistant State Counsel for State Solicitor of Western Australia (U02927305);

We act on behalf of the following defendants in relation to the charges and summonses filed by Mr Shaw against them on 14 November 2006. The defendants in question were:

- Criminal Charges against various defendants

Brian W Shaw - Witness Summonses

Dear Sir/Madam

By fax: 9628 7826

No of pages: 5

Criminal Registry
Magistrates' Court of Victoria
DX 350080

15 April 2008

Contact details: Leang Thai
8684 0487 (direct line)
leang.thai@vgsso.vic.gov.au

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Our reference: JD 610501
JD 611420
CSSA 611334
ACTGS 611297
CSQLD 611127
CSWA 610516

**VICTORIAN GOVERNMENT
SOLICITOR'S OFFICE**

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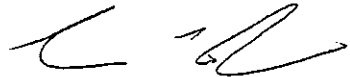
Mr Brian William Shaw
280 Leakes Road
Truganina Vic 3029

Mr Ross Delahunty
Legal Rite - Solicitors
PO Box 24
Bentleigh Victoria 3204
By fax: 9568 5217

- 1. Letter dated 19 March 2008
- 2. Letter dated 2 April 2008

Encl.

David Ryan
Managing Principal Solicitor



Yours faithfully
Victorian Government Solicitor's Office

We thank you for your assistance in the matter. Please do not hesitate to contact Ms That on 8684 0487 if you have any queries.

We enclose for your information a copy of our letters dated 19 March and 2 April 2008. We have written to Mr Shaw and his solicitors seeking Mr Shaw's consent to our clients withdrawing their applications on the terms that the parties will agree to walk away and bear their own costs of the proceedings. However, we did not hear from either of them. We would appreciate it if orders could be made in relation to the withdrawal of the costs applications. We also request that certified extracts of the orders be forwarded to us in due course.

Our request to the Court
We advise that we have been instructed by our clients to withdraw their applications for costs.

The Deputy Chief Magistrate adjourned the applications to a date to fixed and reserved costs. On 29 January 2007, our clients' costs applications came for hearing before Deputy Chief Magistrate Lawritsen. A preliminary application was made by Dr Walsh on behalf of Mr Shaw for the applications to be adjourned pending the determination of any application to be filed by Mr Shaw in the Supreme Court under s92 of the *Magistrates' Court Act 1989*. On 15 December 2006, the criminal proceedings and the witness summonses came for hearing before Chief Magistrate Gray. The Chief Magistrate struck out the criminal proceedings and set aside the witness summonses. On the same day, we made applications on behalf of our clients for costs but the applications were adjourned to 29 January 2007.

- 12. Ms Kerry Shine - Attorney-General of Queensland (U02936954); and
 - 13. Mr Michael Atkinson - Attorney-General of South Australia (U02936364);
- We also act on behalf of Master Dowling and Mr Rob Schade in relation to witness summonses returnable on 15 December 2006.



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Our reference:

JD 610501
JD 611420
CSSA 611334
ACTGS 611297
CSQLD 611127
CSWA 610516

Contact details:

Mr Ross Delahunty
Legal Rite - Solicitors
PO Box 24
Bentleigh Victoria 3204

By fax: 9568 5217

Dear Mr Delahunty

Criminal Charges against various defendants

We refer to our letter dated 19 March 2008 in which we requested that you inform us by 27 March 2008 whether your client, Mr Shaw, would consent to our clients withdrawing their applications for costs on the terms that each party would bear their own costs.

We have not heard from you.

We request your response by 8 April 2008 as to whether your client will consent to our clients withdrawing their costs applications. If we do not hear from you by that date, we will write to the Magistrates' Court advising the Court that our clients wish to withdraw their applications with no order as to costs.

We await your response. Please contact Ms Thai on 8684 0487 if you have any queries.

Yours faithfully

Victorian Government Solicitor's Office

David Ryan

Managing Principal Solicitor

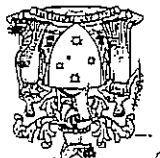
CC. Mr Brian William Shaw

280 Leakes Road
Truganina Vic 3029

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JK



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19 March 2008

Mr Ross Delahunty
Legal Rite - Solicitors
PO Box 24
Bentleigh Victoria 3204

FILE COPY

By fax: 9568 5217

No of pages: 2

Dear Mr Delahunty

Criminal Charges against various defendants

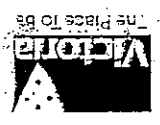
We understand that you act on behalf of Mr Shaw in relation to various proceedings.

Charges filed on 14 November 2006
We act on behalf of the following defendants in relation to the charges and summonses Mr Shaw filed against them on 14 November 2006. The defendants in question were:

1. Mr James Andre McGinly - Attorney-General of Western Australia;
2. Mr John James Mansell Bowler - Minister for Resources of Western Australia;
3. Mr Robert Cock QC - Director of Public Prosecutions of Western Australia;
4. Chief Justice Wayne Stewart Martin of the Supreme Court of Western Australia;
5. Justice Christopher David Steytler of the Supreme Court of Western Australia;
6. Justice Christine Ann Wheeler of the Supreme Court of Western Australia;
7. Justice John Roderick McKechnie of the Supreme Court of Western Australia;
8. Justice Christopher James Lonsdale Pullin of the Supreme Court of Western Australia;
9. Justice Michael John Buss of the Supreme Court of Western Australia;
10. Ms Audrey Gillian Braddock SC - the then Commissioner of the Supreme Court;
11. Registrar Corryn Rayney of the Supreme Court of Western Australia;
12. Mr Robert Mitchell - Senior Assistant State Counsel for State Solicitor of Western Australia;
13. Ms Kerry Shine - Attorney-General of Queensland; and
14. Mr Michael Atkinson - Attorney-General of South Australia.

We also act on behalf of Master Dowling and Mr Rob Schade in relation to witness summonses issued by Mr Shaw.

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On 15 December 2006, the criminal proceedings and the witness summonses came for hearing before Chief Magistrate Gray. Representatives of the Commonwealth and Victorian Director of Public Prosecutions (DPPs) appeared and announced the decisions of the respective DPPs to take over and withdraw the criminal proceedings and witness summonses. The Chief Magistrate struck out the criminal proceedings and set aside the witness summonses. We made applications on behalf of our clients for costs but the applications were adjourned to 29 January 2007.

Charges filed in December 2006

In December 2006, Mr Shaw filed charges and summonses against Chief Magistrate Gray and the Attorney-General for the State of Victoria. The criminal proceedings were returnable on 29 January 2007.

On 29 January 2007, the criminal proceedings came before Magistrate Smith for hearing. A representative of the Commonwealth Director of Public Prosecutions (the Cth DPP) announced the decision of the Cth DPP to take over the conduct of the charges and withdrew the proceedings. The proceedings were then struck out by Magistrate Smith.

On the same day, we continued with our applications for costs. The applications came before Deputy Chief Magistrate Lauritsen. A preliminary application was made by Dr Walsh on behalf of Mr Shaw for the applications to be adjourned pending the decision and determination of any proposed application to be filed by Mr Shaw under s92 of the *Magistrates' Court Act 1989*.

The Deputy Chief Magistrate adjourned the applications to a date to fixed and reserved costs.

Our clients' instructions

We have received our clients' instructions that they do not wish to pursue their applications for costs.

We propose to write to the Magistrates' Court advising the Court that our clients wish to withdraw their applications on the terms that the parties will agree to walk away and bear their own costs of the proceedings.

Accordingly, we would appreciate if you could provide us your response by Thursday 27 March 2008, informing us that Mr Shaw consents to our client withdrawing their applications for costs on the terms that each party will bear their own costs.

We await your response.

Yours faithfully,

Victorian Government Solicitor's Office

David Ryan

Managing Principal Solicitor

CC. Mr Brian William Shaw

280 Leakes Road

Truganina Vic 3029

78.



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

Exhibit Oath of Allegiance Removed

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 6 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

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Courts and Tribunals Legislation (Further Amendment) Act 2000
 Act No. 51/2000

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The purpose of this Act is to make miscellaneous amendments to the Legal Practice Act 1996, the Magistrates' Court Act 1989, the Supreme Court Act 1986 and the Victorian Civil and Administrative Tribunal Act 1998.

1. Purpose

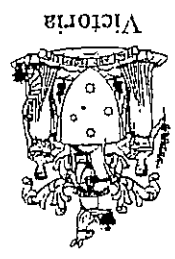
PART I—PRELIMINARY

The Parliament of Victoria enacts as follows:

[Assented to 5 September 2000]

**Courts and Tribunals Legislation
(Further Amendment) Act 2000[†]**

No. 51 of 2000



Victoria

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- (1) This Act, except sections 5 and 6, comes into operation on the day after the day on which it receives the Royal Assent.
- (2) Subject to sub-section (3), sections 5 and 6 come into operation on a day or days to be proclaimed.
- (3) If section 5 or 6 does not come into operation on before 1 January 2001, it comes into operation on that day.

2. Commencement

*Courts and Tribunals Legislation (Further Amendment) Act
2000
Act No. 51/2000*

s. 2

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3. *Oath of allegiance no longer required*
 In section 6(1) of the Legal Practice Act 1996,
 for paragraph (c) substitute—
 "(c) takes an oath of office, or makes an
 affirmation of office, in the form required by
 the Court";

No. 35/1996.
 Reprint No. 2
 as at
 15 August
 1999. Further
 amended by
 No. 52/1999.

PART 2—LEGAL PRACTICE ACT 1996

Courts and Tribunals Legislation (Further Amendment) Act
 2000
 Act No. 51/2000

s. 3

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7. Regulations—fees for recordings

- (a) in paragraph (a), for "complaint" substitute "proceeding or any part of the proceeding";
- (b) in paragraph (b), for "matter" substitute "proceeding or any part of the proceeding";
- (c) in paragraph (c), for "complaint" substitute "proceeding or any part of the proceeding";

1989—

(2) In section 107(2) of the Magistrates' Court Act

"(1) A magistrate or a registrar may refer a civil proceeding or part of a civil proceeding for a pre-hearing conference in accordance with the Rules."

(1) In section 107 of the Magistrates' Court Act 1989, for sub-section (1) substitute—

6. Pre-hearing conferences

The principal registrar must ensure that all proceedings in the Court are recorded in accordance with the Rules."

"19A. Recording of proceedings

1989 insert—

After section 19 of the Magistrates' Court Act

5. Insertion of new section 19A

"(b) the referral of any civil proceeding, or any part of a civil proceeding, for a pre-hearing conference and the conduct of pre-hearing conferences;"

1989, after paragraph (a) insert—

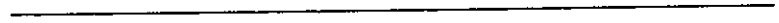
In section 16(1) of the Magistrates' Court Act

4. Civil rules of court—pre-hearing conferences

PART 3—MAGISTRATES' COURT ACT 1989

No. 51/1989.
 Reprint No. 6
 as at 1 July
 1999. Further
 amended by
 Nos 35/1999
 and 1/2000.

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In section 120(1) of the Magistrates' Court Act 1989, omit "the Children's Court Act 1973 and".

9. *Statute law revision*

The Chief Magistrate together with 2 or more Deputy Chief Magistrates may jointly make rules of court for or with respect to the recording of proceedings in the Court".

"143. *Rules of court—recording of proceedings*

1989 insert—

After section 142 of the Magistrates' Court Act

8. *Insertion of new section 143*

"(c) prescribing the fees and charges payable for the supply by the Court of any recording or any part of a recording of a proceeding; and"

1989, after paragraph (b) insert—

In section 140(1) of the Magistrates' Court Act



Act No. 51/2000

2000

Courts and Tribunals Legislation (Further Amendment) Act

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(ii) for "assignee" substitute "assignee";
 "mortgagee's";
 (i) for "mortgagee's" substitute
 "mortgagee's";
 (b) in section 84(3)(b)—
 the Rules of the Supreme Court;
 Proceedings 1986" substitute "Chapter I of
 for "General Rules of Procedure in Civil
 (a) in section 3, in sub-sections (3), (4) and (5),
 In the Supreme Court Act 1986—

11. Statute law revision

Amendment) Act 2000."
 and Tribunals Legislation (Further
 commencement of section 10 of the Courts
 made on an appeal instituted after the
 (3B) Sub-section (3A) applies only to an order
 Sub-section (3A) applies only to an order
 made on an appeal instituted after the
 commencement of section 10 of the Courts
 and Tribunals Legislation (Further
 Amendment) Act 2000."
 (a) under section 148(1)(b) of the
 Victorian Civil and Administrative
 Tribunal Act 1998; or
 (b) under section 92 or 109 of the
 Magistrates' Court Act 1989—
 is not subject to appeal to the Court of
 Appeal except by leave of the Court of
 Appeal or by leave of the Judge constituting
 the Trial Division.
 (3B) Sub-section (3A) applies only to an order
 made on an appeal instituted after the
 commencement of section 10 of the Courts
 and Tribunals Legislation (Further
 Amendment) Act 2000."

In section 17A of the Supreme Court Act 1986,
 after sub-section (3) insert—
 "(3A) An order made by the Trial Division
 constituted by a Judge on an appeal to the
 Court—
 Court—

10. Further restriction on appeals

PART 4—SUPREME COURT ACT 1986

Courts and Tribunals Legislation (Further Amendment) Act
 2000
 Act No. 51/2000

No. 110/1986.
 Report No. 3
 as at
 1 August 1998
 . Further
 amended by
 Nos
 10/1/1998,
 10/1/1999 and
 62/1999.

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(c) For the heading to Part 8 substitute—
 "PART 8—TRANSITIONALS AND SAVINGS";
 (d) sections 130, 131, 132, 133, 134, 135, 136,
 137 and 140 and the Schedule are repealed.

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- (1) If the President considers it necessary for the proper functioning of the Tribunal, he or she may request the Minister that one or more reserve judges of the County Court be appointed as Vice Presidents.
- (2) The Minister may appoint a reserve judge as a Vice-President for a term not exceeding 3 months.
- (3) A reserve judge may only be appointed as a Vice-President after the Minister has consulted the Chief Judge.

"11A. Short-term Vice Presidents"

After section 11 of the Victorian Civil and Administrative Tribunal Act 1998 insert—

13. New section 11A inserted

- (b) in the definition of "Vice President", after "Tribunal" insert ", including a Vice President appointed under section 11A".
- "reserve judge" of the County Court, means a judge who has made an election under section 13A(1) of the County Court Act 1958 or who has been appointed under section 13A(3A) of that Act;

- (a) after the definition of "professional advocate" insert—

In section 3 of the Victorian Civil and Administrative Tribunal Act 1998—

12. Definitions

PART 5—VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL ACT 1998

No. 53/1998.
Reprint No. 1
as at 1 July
1999. Further
amended by
Nos 17/1999,
57/1999 and
1/2000.

- (a) in section 22(1)—
 - (i) for "Minister" (where twice occurring) substitute "President";
 - (ii) for "President" substitute "Minister";
- (b) in section 23(1), for "suspending" substitute "the President suspends";

(1) In the Victorian Civil and Administrative Tribunal Act 1998—

15. *Suspension of non-judicial member*

- (a) in section 16(1), after "Members" insert "(other than a Vice President appointed under section 11A)";
- (b) in section 21(1), after "judge" insert "or reserve judge, as the case requires";

In the Victorian Civil and Administrative Tribunal Act 1998—

14. *Appointment of members*

- (4) The appointment of a reserve judge as a Vice President does not affect his or her tenure of office or status as a reserve judge nor any salary, pension or other rights or privileges that he or she has as a reserve judge.
- (5) Service in the office of Vice President must be taken for all purposes to be service in the office of reserve judge.
- (6) Nothing in this Act prevents a reserve judge appointed as a Vice President who is appointed under section 13A(4) of the County Court Act 1958 from constituting the County Court for the purpose of the exercise by the County Court of any of its functions.

(2) In section 23 of the Victorian Civil and Administrative Tribunal Act 1998, for

sub-section (8) substitute—

"(8) If the Minister decides not to make a

recommendation under sub-section (4)—

(a) the Minister must inform the President

as soon as practicable after receiving

the report under sub-section (2)(b); and

(b) the President must lift the suspension."

16. *Validity of proceedings*

In section 25 of the Victorian Civil and

Administrative Tribunal Act 1998, at the end of

paragraph (c) insert—

"; or

(d) a member or former member represents a

party in a proceeding in contravention of

section 25A."

17. *New section 25A inserted*

After section 25 of the Victorian Civil and

Administrative Tribunal Act 1998 insert—

"25A. *Member or former member may not*

represent a party

If the rules provide for proceedings to be

entered in or transferred to lists of the

Tribunal and for members to be assigned to

those lists—

(a) a member must not represent a party in

any proceeding that has been entered in

or transferred to a list to which the

member has been assigned;

18. *Non-payment of application fees*
- (b) For a period of 2 years after a member ceases to be a member, he or she must not represent a party in any proceeding that has been entered in or transferred to a list to which the former member was assigned."
- (1) In section 68(3) of the Victorian Civil and Administrative Tribunal Act 1998, for "application is deemed not to have been lodged" substitute "Tribunal is to take no further action in respect of the application (other than action referred to in sub-section (4))";
- (2) In section 68 of the Victorian Civil and Administrative Tribunal Act 1998, for sub-section (4) substitute—
- "(4) If the fee is not paid within 30 days after the day on which the application is lodged, the Tribunal may make an order striking out the proceeding, unless—
- (a) the fee has been waived under section 132 in that period; or
- (b) the fee has been reduced under section 132 and the reduced fee has been paid in that period; or
- (c) an applicant has requested the waiver or reduction of the fee and the request has not been determined by the end of that period."

19. *Summary dismissal of proceedings*

In section 75(3) of the Victorian Civil and Administrative Tribunal Act 1998, at the end of paragraph (b) insert—

“; or

(c) a senior member who is a legal practitioner.”

20. *Conduct of proceedings causing disadvantage*

In section 78(1) of the Victorian Civil and Administrative Tribunal Act 1998, at the end of paragraph (f) insert—

“; or

(g) failing to attend mediation or the hearing of the proceeding.”

21. *Mediator may require attendance at mediation*

In section 89 of the Victorian Civil and Administrative Tribunal Act 1998, after “mediation” (where first occurring) insert “or the mediator”.

22. *Notice of successful mediation*

In section 90 of the Victorian Civil and Administrative Tribunal Act 1998, for “Tribunal” substitute “principal registrar”.

23. *Power to close hearings*

In section 101(5) of the Victorian Civil and Administrative Tribunal Act 1998, after “sub-section” insert “(2) or”.

24. *Failing to attend an assessment of costs*

In section 111 of the Victorian Civil and Administrative Tribunal Act 1998, after sub-section (2) insert—

(3) If—

- (a) a party fails to attend an assessment of costs having been given reasonable notice of the assessment by the principal registrar; and
- (b) the assessment is adjourned as a result; and
- (c) another party incurs additional costs because of the adjournment—
 - the principal registrar may order that the party who failed to attend pay an amount fixed by the principal registrar in respect of the additional costs of the other party.
- (4) An order under sub-section (3) may be enforced under section 121 as if it were a monetary order.
- (5) A party against whom an order is made under sub-section (3) may, within 14 days after the day on which the order is made, require the principal registrar to refer the order to the Tribunal for review.
- (6) If the principal registrar makes an order under sub-section (3), the principal registrar—
 - (a) must inform the party against whom it is made of the right of referral under sub-section (5); and
 - (b) may stay the order, on the application of a party or on the principal registrar's own initiative, pending the exercise of that right and the determination of the review.

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In clause 23 in Schedule 1 to the Victorian Civil and Administrative Tribunal Act 1998, for "presiding member" substitute "person presiding".

27. Statute law revision

- (b) sub-section (11) is repealed.
 - (a) in sub-section (10), for "the President" substitute "a judicial member";
- In section 137 of the Victorian Civil and Administrative Tribunal Act 1998—

26. Contempt

In section 124(2) of the Victorian Civil and Administrative Tribunal Act 1998, for "judicial member" substitute "presidential member".

25. Declarations

- (7) No fee is payable for a referral under sub-section (5).
- (8) On a referral under sub-section (5), the Tribunal must review the order and may, by order, confirm, vary or set aside the order.
- (9) Nothing in Division 3 of Part 3 applies to a review under sub-section (8).

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Minister's second reading speech—
 Legislative Assembly: 26 May 2000
 Legislative Council: 29 August 2000
 The long title for the Bill for this Act was "to make miscellaneous amendments to the Legal Practice Act 1996, the Magistrates' Court Act 1989, the Supreme Court Act 1986 and the Victorian Civil and Administrative Tribunal Act 1998 and for other purposes."

ENDNOTES



*Courts and Tribunals Legislation (Further Amendment) Act
 2000
 Act No. 51/2000*

Endnotes

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

Exhibit *Business Unit 19*

Before me: Margaret May Campbell

This is the exhibit referred to and marked Exhibit 7 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of an Application by
Brian William Shaw

And

IN THE MATTER of the Crimes Act 1958

IN THE SUPREME COURT OF VICTORIA
FULL COURT - CRIMINAL JURISDICTION
No of 2009

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In his parting words from the Supreme Court bench, John D. Phillips warns of a dangerous erosion of the court's independence.

For more than 14 years I have been sitting here, and it has been hard and unremittling, but exciting and rewarding - emotionally, I hasten to add, before I am misunderstood. But for much of that time I have had to bite my tongue.

I refer to policy matters rather than the debate within a particular case. For, during my time on the bench, and especially as I grew more senior, I have watched with some concern a change emerge in the perception of this court by others and some blurring of essential distinctions. I want to speak briefly of that now because I have been unable to say much about it until now and when my resignation becomes effective, I fear that nobody will listen.

As we all know, the independence of the judiciary is a cornerstone of our constitutional system, particularly the independence of this court, which must, from time to time, tell the political arm what they can and cannot do according to law. As a court we will rarely, if ever, be popular with politicians, but while I have been sitting here, I have seen what appears to me to be some erosion of this court's independence.

One of the most public examples recently was the refusal of the executive to accept the decision on remuneration handed down by the tribunal established by the Parliament for the very purpose of freeing both Parliament and the executive from the invidiousness of the decision-making process over judicial salaries and so ensuring the independence of which I am speaking.

Less well known was the refusal of earlier governments to allow that the court's own chief executive officer be appointed by the Governor-in-Council and its insistence that that officer be appointed by and be ultimately answerable to the Department of Justice, which is what happened.

That appears now, if I may say so, to have been but part of a movement towards this court's becoming absorbed into that department, and it is that to which I want to draw attention in particular; for such a movement must be reversed if this court is to have, and to keep, its proper role under the constitution.

This court is not some part of the public service and it must never be seen as such. Established tribunals, this court is the third arm of government, co-equal in concept with Parliament and the executive. Its role, inter alia, is to control and to limit those other arms according to law and to that end to stand between those other arms and the citizen. Hence the emphasis on the court's independence, especially from the executive.

Yet within the Department of Justice this court is now identified and dealt with - would you believe - as "Business Unit 19" within a section labelled "courts and tribunals", a section which indiscriminately includes all three tiers of the court structure and VCAT.

This court is subject to direction on the raising of taxes in the form of court fees - in that these are prescribed by departmental regulation, even if a part of those fees is redirected to the court by the department at its discretion. The other day the department used a regulation to prescribe a procedure in this court, apparently in disregard, if not in defiance, of the convention that such matters are for rules of court.


And perhaps most troubling of all: the judges' computers, which were provided by and through the department, are but part of the departmental network. I do not say that departmental officers ordinarily avail themselves of the access that that affords; one hopes the department has some controls in place. But access is possible, and that seems to me altogether inappropriate when the

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state, in one form or another, is the major litigant in this court, and sometimes on matters of critical import to the wider community.

Nobody is suggesting that the executive would ever seek to influence a judge's decision directly, otherwise than by argument in open court, but what has been happening is more insidious. What is evolving is a perception of the court as some sort of unit or functionary within the Department of Justice, a perception which is inconsistent with this court's fundamental role and underlying independence.

Indeed I think it is fair to say that the Supreme Court, despite its dominant role within the court structure and its constitutional role vis-a-vis the other arms of government, is now seen by some in authority as no different from a tribunal, nowadays the Victorian Civil and Administrative Tribunal in particular. That is simply not the case; yet the distinction between a court and a tribunal has been steadily undermined over the years, and it must be restored if the proper constitutional position is not to be subverted.

The basic distinction is easy enough. A court exercises judicial power and must be, and be seen to be, impartial and so must be independent of all else. Accordingly, its judges are appointed once and for all, and ideally, without hope of additional gain or reward from anyone, including any other arm of government. Hence Parliament's creation of the specialist remuneration tribunal. In contrast to a court, a tribunal, properly so called, exercises administrative functions but not judicial power, and many things flow from that. Such a tribunal may be an arm of the executive; its members may be appointed for fixed terms, with the possibility of renewal at the discretion of the executive; and the need is not so great, to see that their remuneration is fixed independently of the executive.

You will see, now, how far the distinction between court and tribunal has become blurred. While the Victorian Civil and Administrative Tribunal is staffed by a few judges, it consists mainly of members appointed for fixed terms, capable of renewal at the discretion of the executive - and hence my alarm when, in addition to its administrative work, that tribunal was given some judicial power to exercise, for the latter is altogether inconsistent with such a form of tenure.

There is talk now of acting judges for this court, and again, because this is a court which is exercising judicial power, such would be anathema. It is one thing to tolerate the occasional acting appointment to this court for a limited time or purpose; it is altogether different to institutionalise such temporary appointments at the discretion of the executive. Judges of a court properly so called must have security of tenure or, in a relatively small community like this in Victoria, the whole system is put at risk. Our courts have been remarkably free from any taint of bias or corruption; let it remain that way. A judge must be, and be seen to be, impartial and so must eschew all other interests which might one day give rise to conflict or the appearance of bias.

In my book, the judge must forgo the current cult of the individual: to adapt Edmund Burke, "individuals pass like shadows, but the (institution) is fixed and stable". The judge is sometimes accused of remoteness but in one sense that is no more than the reverse side of the commitment, the total commitment, which is demanded of the appointee.

John D. Phillips is retiring as a judge of the Supreme Court of Victoria. This is part of his farewell address to the court.

99



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

Exhibit Hills Bill 1

Before me: Margaret May Campbell

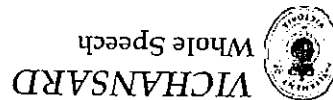
This is the exhibit referred to and marked Exhibit 8 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE SUPREME COURT OF VICTORIA
FULL COURT - CRIMINAL JURISDICTION
IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

IN THE SUPREME COURT OF VICTORIA
No of 2009



Whole Speech

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Title CRIMINAL PROCEDURE BILL

House ASSEMBLY

Activity

Members HULLS

Date 2 December 2008

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2 December 2008 ASSEMBLY

Page 4748

CRIMINAL PROCEDURE BILL

Introduction and first reading

Mr HULLS (Attorney-General) -- I move:

That I have leave to bring in a bill for an act to provide for procedures for the initiation and conduct of criminal proceedings and appeals in criminal proceedings, to amend the Crimes Act 1958, the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997, the Magistrates' Court Act 1989, the Children, Youth and Families Act 2005, the Sentencing Act 1991 and the Appeal Costs Act 1998 and to repeal the Crimes (Criminal Trials) Act 1999 and for other purposes.

Mr CLARK (Box Hill) -- I ask the Attorney-General to provide a brief explanation of the bill.

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Mr HULLS (Attorney-General) -- I am happy to do that. This is a major piece of reform in relation to criminal procedure laws. It will consolidate criminal procedure which is contained in a number of acts into one act. It will modernise the language and harmonise laws to be consistent across jurisdictions. It will abolish redundant and obsolete laws, including the grand jury procedure, and it will also rationalise criminal procedure to be clear and simple and to reflect current practice. As I said, it is a major piece of reform and it has come about as a result of the justice statement.

Motion agreed to.

Read first time.

[New Search]

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

Exhibit *Hulls Bill 2*

Before me: *Margaret May Campbell*

This is the exhibit referred to and marked *23* Exhibit 9 in the affidavit of Brian William Shaw Affirmed on the *23* day of December, 2009 at Werribee in the State of Victoria.

Date of Document: *23* December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE SUPREME COURT OF VICTORIA
FULL COURT - CRIMINAL JURISDICTION
IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw



[Previous page] [First Match] [New Search]

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Title **CRIMINAL PROCEDURE BILL**
House **ASSEMBLY**
Activity **Second Reading**
Members **CLARK**
Date **3 February 2009**
Page **38**

is going to conclude that its legislation is appropriate and it is the charter that is out of whack. The charter provides sweeping commitments in grand terms towards human rights that sound laudable but which in fact cut across long-established law that is almost universally regarded as appropriate.

In particular on this bill the SARC report highlights a number of issues which should be put on the record. Page 16 of the committee's report states:

... several provisions of the bill engage various charter rights in criminal proceedings, by permitting or failing to prohibit potential breaches of those rights ...

It states further:

Clause 76 gives the Magistrates Court a power to convict a person charged with a summary offence of the offence of attempting to commit that offence, whether or not the offender was promptly told of that possibility (as required by charter s. 25(2)(a)).
Clause 247 gives courts the power to extend time limits for trials 'if it is in the interests of justice to do so', without any guarantee that the trial will not be unreasonably delayed (as required by charter s. 25(2)(c)).
Clauses 274 and 278 provide for appeals against conviction and sentence only on the granting of leave to appeal by the Court of Appeal, rather than as of right (as required by charter s. 25(4)).

In each of those cases I am inclined to the view that the law as it has stood for a long time is reasonable and it is the charter that is out of alignment.

Whatever view you take on that matter, we cannot have the ludicrous situation where we have these grand rights set out in the charter and then have them being uniformly ignored by the legislation that is brought before the Parliament. The committee's report goes on to say that while the committee accepts that existing practices will protect defendants' charter rights, the committee is concerned that that protection is not guaranteed if there is a change in the common law or Australian court practice mandated in a future High Court judgement. Again it shows how we are tying ourselves up in knots with these poorly considered and sweeping charter provisions.

The report goes on to draw attention to other apparent violations of the charter, including section 25(2)(i), which provides that defendants are:

... to have the free assistance of an interpreter if he or she cannot understand ... English ...

That is breached by the fact that in relation to offences that are not punishable by imprisonment, clause 335 provides no protection for people who do not speak English. I look forward to hearing what honourable members opposite who have been vocal in their support of the charter have to say about the breaches of the charter which SARC has identified in its report.

A range of issues have been raised with the opposition by persons it has consulted. I acknowledge in particular the very comprehensive and detailed submission that was provided to the opposition by members of the Crime Victims Support Association (CVSA). The association has raised a number of issues that are worth putting on the record. It has drawn to our attention the importance of written documentation being provided to the jury in relation to the trial judge's directions. That is something that is open to the trial judge to do under the provisions of the bill, but it is not mandatory for them to do so.

I think it is fair to say that in complex trials jurors struggle to cope with the range and complexity of material that is presented to them orally, and I think we need to look at making far greater use of the provision of written documentation to jurors. Of course we have to avoid going to the opposite extreme of their being overwhelmed with a flood of written documentation. However, it is critical that key documentation be available to them, and it may well be able to be made available to them in electronic form.

The CVSA has also raised with the opposition a number of specific matters which can be summarised by saying that its concern is that there has been a concentration of power in the hands of judges and away from juries and a concentration of power in the hands of the Director of Public Prosecutions at the expense of leaving little room for the private citizen to initiate prosecution. The association raises this concern in relation in particular to the abolition of the grand jury.

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It makes the point that the grand jury provides a way in which the public may have a remedy if there is inaction by the state in terms of prosecuting people who may have committed a crime. That of course potentially could be particularly relevant if there is criminal conduct by members of or associated with government itself. That perhaps reinforces the point that the opposition has been making for a long time -- that Victoria needs a broadbased anticorruption commission, as so many other jurisdictions have, that can provide that sort of protection and safeguard to the community.

The point has been made to us also by another correspondent, a senior member of the bar, that the abolition of the double jeopardy discount on sentence appears as contained in the bill is something that has been included with little notice to the profession. Certainly his view was that it was something that was being snuck into the bill and that there had been

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

Exhibit *Hulls Bill 3*

Before me: *Margaret May Campbell*

This is the exhibit referred to and marked **Exhibit 10** in the affidavit of Brian William Shaw Affirmed on the **23** day of December, 2009 at Werribee in the State of Victoria.

Date of Document: **23** December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

WICHANSARD



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Title **CRIMINAL PROCEDURE BILL**

House **COUNCIL**

Activity **Second Reading**

Members **RICH-PHILLIPS**

Date **26 February 2009**

Page **989**

It is our view that the provisions of this bill which offend against the charter are appropriate provisions. The fact that they do offend against the charter should be of concern to the government and to the Attorney-General and they should not be simply brushed aside and ignored, as has been the case with SAC reports of deviations from the charter in the past. We have seen that yet again with the debate on this legislation, where the government has simply issued a statement of compatibility which ignores the failings of its legislation against the charter and then has ignored subsequent concerns raised by SAC about the compatibility of the legislation with the charter.

One of the other matters about which we have concerns is the shift in the balance of power within the judicial system. One of the consequences of this legislation is a shift in the power in courts from juries to judges. Under this legislation, judges will be in a stronger position in trials as against the position or relevance of juries.

Whether that leads to more expedient disposal of matters in the courts remains to be seen, but we flag it as a shift that will be consequent on this legislation.

Likewise there will be a shift in the capacity of the public to bring prosecutions by way of the grand jury mechanism versus a reliance on the DPP (Director of Public Prosecutions) for all prosecutions. I understand that the grand jury mechanism is one that has not been used to a great extent in the Victorian jurisdiction, but it is a longstanding provision of the Crimes Act; it allows private prosecutions to be brought by virtue of a grand jury. While it may not be a commonly used provision, it is one element that allows members of the Victorian public, where they deem a wrong to have occurred and where they deem it has not been dealt with by the DPP, to bring an action. The other matter I briefly touched on earlier was the handling of summary matters involving children. The bill proposes, as I said, to reduce the time frame in which a proceeding must be commenced from 12 months to 6 months where the person accused of the offence is a child. It is our view that a reduction to 6 months is insufficient to allow police and prosecutors to properly undertake their duties in bringing all summary matters involving children to court.

We have spoken extensively to barristers and police as to the impact this will have on their functions and as to the reality of the types of summary offences police are involved in investigating. The example of graffiti offences was raised; it can take a considerable time for police to identify the children responsible for graffiti offences. A number can be matched to other sites and individuals.

It is often not possible with these types of minor summary offences to have proceedings commence within six months, as the investigatory process simply takes longer than that. I understand there is considerable concern among Victoria Police officers about the impact that will have on their capacity to bring summary offences carried out by children to court.

The coalition parties propose that we amend the legislation, and I ask for our proposed amendments to be circulated.

Opposition amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders. Mr RICH-PHILLIPS -- In the committee stage we will seek to amend clause 376 to provide that the existing provision continue, meaning that proceedings relating to all summary offences must be commenced within 12 months and that there be no 6 month distinction made for children. That is one of our key concerns about this legislation.

On the whole, we welcome the consolidation of the criminal procedure statutes. As I said, we do not endorse the detail of this legislation -- its actual impact in court is yet to be seen -- but we welcome the principle of consolidation. However, we highlight that the failings of our court system are those of the Attorney-General, had he devoted more resources of his department and his agencies to clearing the court backlog rather than his flights of fancy over the last nine years, the Victorian justice system would be far better off.

Ms PENNICK (Southern Metropolitan) -- The Criminal Procedure Bill 2008 is quite a long and complicated bill, because it is consolidating parts of three pieces of legislation -- the Crimes Act, the Magistrates' Court Act and the Crimes (Criminal Trials) Act -- with regard to provisions in those acts that refer to criminal proceedings and procedures and because it also looks at where the common law refers to criminal procedure. That means the

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legislation covers 145 years -- that is, back to about 1864, since the first relevant provisions were introduced, and to even before that in terms of the common law. Thus many common law and statutory procedures have been
 trawled through in bringing this bill to the Parliament.

People I have been speaking to think this is a very good thing, because criminal procedure is complex and confusing, especially to victims and people accused of

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*Court Staff
26 February 2006.*



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

Exhibit *Hulls Grand Jury Application*

Before me: *Margaret May Campbell*

This is the exhibit referred to and marked Exhibit 11 in the affidavit of Brian William Shaw Affirmed on the *23* day of December, 2009 at Werribee in the State of Victoria.

Date of Document: *23* December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of an Application by
Brian William Shaw

And

IN THE MATTER of the Crimes Act 1958

FULL COURT - CRIMINAL JURISDICTION

IN THE SUPREME COURT OF VICTORIA No of 2009

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~~(10)~~

[Handwritten signature]

This Application is filed by Brian W Shaw

DATED the 27 day of February 2006.

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

commanded of them.

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

55 St Andrews Place East Melbourne

Attorney General Victoria

A. Mr. Rob Hills

committed by:

TAKE NOTICE that the Full Court of the Supreme Court will be moved on the day of 2006 at a.m. by the applicant for the following Orders pursuant to section 354 of the Crimes Act 1958, the applicant having disclosed indictable offences

APPLICATION

Brian William Shaw

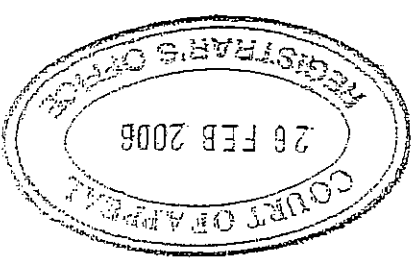
IN THE MATTER of an Application by

And

IN THE MATTER of the Crimes Act 1958

FULL COURT - CRIMINAL JURISDICTION

IN THE SUPREME COURT OF VICTORIA



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

Filing/ lodged 29 December 2007.

Exhibit Gillard's Grand Jury Application

Before me: *Margaret May Campbell*

This is the exhibit referred to and marked Exhibit 12 in the affidavit of Brian William Shaw Affirmed on the 23 day of December, 2009 at Werribee in the State of Victoria.

Date of Document: 23 December 2009
Filed on behalf of: The Applicant
Prepared by: Brian William Shaw

EXHIBIT

IN THE MATTER of the Crimes Act 1958
And
IN THE MATTER of an Application by
Brian William Shaw

IN THE SUPREME COURT OF VICTORIA
FULL COURT - CRIMINAL JURISDICTION

No of 2009

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.

Julia Gillard (Commonwealth MP) Werribee Victoria

TAKE NOTICE that the Full Court of the Supreme Court will be moved on the Day of 2007 at am by the Applicant for the following Orders pursuant to Section 354 of the Crimes Act 1958, the Applicant having disclosed Indictable offence/offences involving *Treason, Misprison of Treason, Foreign Allegiances, Unlawful Oaths*, but not limited to these Indictable Offences committed by:

APPLICATION FOR GRAND JURY

Brian William Shaw

IN THE MATTER of an Application by

And

IN THE MATTER of the Crimes Act 1958

of 2007

No:

IN THE SUPREME COURT OF VICTORIA
FULL COURT; CRIMINAL JURISDICTION

///

- 2. TREASON IS:
 - “Treason consists of a Breach of duty of Allegiance which the Subject owes to the Sovereign and which binds him at all times and in all places”
 - [Rex v Casement 1917, 1 KB 98 at 114]
- 3. CRIMES ACT 1958 VICTORIA – SECTION 351
 - Mode of prosecution
 - “All treasons and misprisions of treason shall be prosecuted by indictment only, and all other indictable offences may be prosecuted by indictment or by presentment as hereinafter directed.”
- 4. CRIMES ACT 1958 VICTORIA – SECTION 322E
 - Treason and misprision of treason not affected
 - “Nothing in this Part shall be taken to affect directly or indirectly any matter of law or practice applicable to treason or misprision of treason.”
- 5. CRIMES ACT 1958 VICTORIA – SECTION 316
 - Unlawful oaths to commit treason, murder etc.
 - (1) Every person who—
 - (a) Administers or is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to commit treason or murder; or
 - (2) Every person who—
 - (a) administers or is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to act in any of the ways following (that is to say):—
 - (ii) To commit any indictable offence other than treason or murder;

(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; or

shall be guilty of an indictable offence, and shall be liable to level 6 imprisonment (5 years maximum).

6. CRIMINAL CODE ACT 1995 (CTH)

Chapter 5: The Security of the Commonwealth
 Part 5.1 Treason
 Division 80 Treason

Penalty: Imprisonment for Life

7. CRIMINAL CODE ACT 1995 (CTH)

Chapter 5: The Security of the Commonwealth
 Part 5.1 Treason
 Division 80 Concealment or Assistance

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

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

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

Penalty: Imprisonment for Life

b. *Byrne v Armstrong* (1899) 25 VLR 126 (The Finding)
 "It is provided now that all the prosecutions shall be by presentment, but preserving the prerogative of the Crown through the Attorney General to proceed by information, except in case of 'treason' which has to be by indictment. Now indictment means by Grand Jury and therefore, inasmuch as the statute provides that Treason shall be tried by indictment only. That means that it must be by Grand Jury and no other means is provided for bringing it before a Grand Jury." *The finding of the Attorney General is*

a. *Byrne v Armstrong* (1899) 25 VLR 126 (The Indictment)
 "That section contemplates an ex parte application founded upon an affidavit disclosing an indictable offence, and that a justice has refused to commit. The court has no discretion once those conditions are complied with. Section 386 shows that so far as Treason is concerned it must be prosecuted by indictment. The Attorney General could not start such a prosecution. It must be by grand jury." (at 126)

9. TREASON & MISPRISON OF TREASON:
 Must be by Grand Jury Exclusively

So far as the laws of the Commonwealth are not applicable or so far as their provisions are insufficient to carry them into effect, or to provide adequate remedies or punishment, the common law in Australia as modified by the Constitution and by the statute law in force in the State or Territory in which the Court in which the jurisdiction is exercised is held shall, so far as it is applicable and not inconsistent with the Constitution and the laws of the Commonwealth, govern all Courts exercising federal jurisdiction in the exercise of their jurisdiction in civil and criminal matters.

8. JUDICIARY ACT 1903 (CTH) SECTION 80
 Common law to govern

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equivalent to the finds of the Grand Jury, but in the case of Treason it must be the finding of the Grand Jury." (at 132)

c. *McArdle v Lorne Campbell* (Sept 1986) (On Behalf of the Crown)

"Much has changed since 1940 and in particular the Office of Director of Public Prosecutions has been established by Act No 9848 of 1982. Under that Act the Director of Public Prosecutions is charged with preparing, instituting and conducting criminal proceedings on 'behalf of the Crown.' The

Director is responsible to the Attorney General for the due performance of his functions and he is given the power to enter a nolle prosequi in criminal

proceedings. But the Attorney-General's power to enter a nolle prosequi is preserved in these circumstances, now that the responsibility for instituting

criminal proceedings has been taken out of the hands of the Attorney-General, it may be that there is not the same need to have an alternative method of

instituting proceedings. When the Office of Director of Public Prosecutions was established S354 of the Crimes Act was amended to substitute the words

'the Director or Public Prosecutions' for the words 'a law officer.' The section therefore now operates where the Director declines to present."

10. FOREIGN ALLEGIANCE

a. Commonwealth Constitution Act 1900 Section 44 (i)

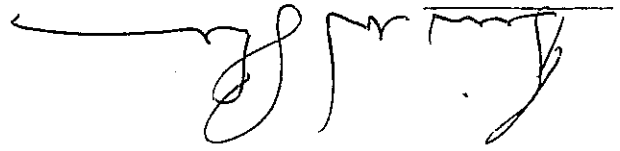
Disqualification

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

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Brian William Shaw
280 Leakes Road
Truganina Victoria 3030



This Application is filed by

DATED the 29th January 2007

11. COMMONWEALTH CONSTITUTION ACT 1900 SECTION 80
 Trial by jury [Section 80 Constitutional Guarantee]
"The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes."
12. Such further or other orders that may be just and necessary.
- b. Commonwealth Constitution Act 1900 Section 44 (ii)
 Disqualification
 Any person who:
 (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