

ACCOMPANYING AFFIDAVIT

IN THE COUNTY COURT OF VICTORIA AT MELBOURNE

AP- 16 1957

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

BETWEEN

THE ATTORNEY GENERAL FOR THE STATE OF VICTORIA

Plaintiff

And

BRIAN WILLIAM SHAW

Defendant

*CRIMINAL CHARGE Re Ms J L DIXON.*

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

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

I. I STATE THAT THIS AFFIDAVIT EXHIBITS THE CRIMINAL OFFENCE LOGGED UNDER SECTION 326(1) OF THE VICTORIAN CRIMINAL ACT 1958.

*Brian W Shaw* *McLennan*

*1/2*

2. I STATE THAT THE CRIMINAL CHARGE  
 WAS LODGED AT THE MURDOCH  
 MAGISTRATE COURT AT 2.10 PM  
 ON THE 30<sup>TH</sup> JUNE 2016.
3. I STATE THAT ATTACHED TO THE  
 CHARGE SHEET WAS THE SINGLE PAGE
- A. GOVERNOR SUBSTITUTION MINISTER
  - B. SECTION 130 SUPREMA COURT ACT 1935  
 WEST AUSTRALIA AMENDED  
 SUBSECTIONS (10) (11) (12)
  - C. THE ENTIRE SECTION 130 OF THE OVERT ACT.
  - D. SECTION 72(2)(E) WA CONSTITUTION
  - E. HIGH COURT TRANSCRIPT AT PAGE 99  
 ATT-GEN (WA) v MARQUESS.

AFFIRMED BY:

Brian J

AT:

615 BORN

THIS

7<sup>th</sup>  
Seventh

DAY OF DECEMBER 2016.

PS  
CME

BEFORE ME:

C. McLemson

CARMEL CLEMSON JP  
 3/84 HAMILTON STREET  
 GISBORNE 3437  
 JUSTICE OF THE PEACE FOR VICTORIA  
 REG. NO 12356

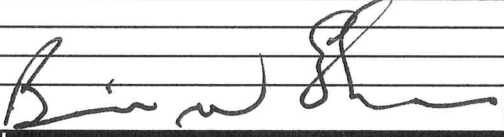
**Charge - Sheet and Summons****TO THE ACCUSED**

Ms S L Dixon  
Melbourne Magistrates Court  
233 William Street  
Melbourne Vic 3000

|                          |                                     |                      |       |
|--------------------------|-------------------------------------|----------------------|-------|
| M                        | F                                   | Date of Birth<br>/ / |       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Registration No      | State |
|                          |                                     | Licence No           | State |

Read both pages to see what you must do

**Details of the charges against you**

|  |   |   |   |  |   |
|--|---|---|---|--|---|
| What is the charge ?                   | <b>The Accused on the 28th June 2016, at Court 18 Melbourne Magistrates Court Victoria, committed a serious indictable offence in that the Accused did have knowledge that other serious indictable offences had been committed and that information in securing the prosecution or conviction of the offenders, the Accused did seek a benefit for not disclosing the relevant information before the Court on that day.</b> |   |   |  |   |
| Under what Law ?                       | <input checked="" type="checkbox"/> State<br><input type="checkbox"/> C'wealth  | <input checked="" type="checkbox"/> Act<br><input type="checkbox"/> Reg | <input type="checkbox"/> Other-specify  | Act or Regulation No<br><b>Crimes Act 1958</b> | Section or Clause (Full Ref)<br><b>326 (1)</b>  |
| Type of offence                        | <input type="checkbox"/> Summary offence (you should go to Court)   |   | <input checked="" type="checkbox"/> Indictable offence (you must go to Court) |  |   |
| Are there more charges ?               | <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |   |  |   |
| Request for Committal proceedings      | <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |   |  |   |
| Who filed the charge sheet's Informant | Brian Shaw  |   |   |  |   |
| Agency and Address                     | c/- PO Box 800 Werribee Vic 3030  |   |   |  |   |
| Phone                                  | 0487 195 522  |   |   |  |   |
| Email                                  | n/a   |   |   |  |   |
| Fax No                                 | n/a   |   |   |  |   |
| Agency Ref                             | n/a   |   |   |  |   |
| Informant Signature                    |    |   |   | Date   | 30 June 2016  |
| <b>Where will the case be heard</b>    |   |   |   |  |   |
| Where you must go                      | The *Magistrates' / Childrens' Court of Victoria at   |   |   |  |   |
| Address                                |   |   |   |  |   |
|  |   |   |   |  | Phone No.   |
| When                                   | Time  | Day   | Month   | Year   |   |
| <b>Details about this summons</b>      |   |   |   |  |   |
| Issued at                              |   |   |   |  | Date  |
| Issued by                              |   |   |   |  | <input type="checkbox"/> Registrar <input type="checkbox"/> Magistrate<br><input type="checkbox"/> Police Informant |
| Charge filed at                        |   |   |   |  | Date  |
| Method of Filing                       | Personal  |   |   |  | Date  |

# GOVERNOR SUBSTITUTES HIMSELF

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## AUSTRALIA ACT 1986 - SECT 7

### Powers and functions of Her Majesty and Governors in respect of States

(1)

Her Majesty's representative in each State shall be the Governor.

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## COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 12

### Issue of writs

The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

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## ACTS AMENDMENT AND REPEAL (COURTS AND LEGAL PRACTICE) ACT 2003 WA (NO. 65 OF 2003) - SECT 130

130 . *Supreme Court Act 1935* amended

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

" the Governor ".

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

**Part 8 — Amendments about the Crown**

**130. *Supreme Court Act 1935* amended**

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

"The ".

(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 —

"State ".

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

"the State of Western Australia ".

WESTERN AUSTRALIA

ACTS AMENDMENT AND REPEAL (COURTS AND LEGAL PRACTICE)  
ACT 2003 (NO. 65 OF 2003) - SECT 130

130. *Supreme Court Act 1935* amended

(All struck out by lawyers)

- (1) The amendments in this section are to the *Supreme Court Act 1935* \*.
- (2) Section 4 is amended as follows:
  - (a) in the definition of "Action" by deleting "by the Crown";
  - (b) in the definition of "Cause" by deleting "by the Crown".

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

(4) Section 15(1) is amended by deleting "Royal Arms" and inserting instead —  
"armorial bearings of the State".

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

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

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

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

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

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

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

(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 — "State".

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

"the State of Western Australia".

THE ENTIRE SCHEDULE OMITTED

NO REFERENDUMS CALLED OR CONDUCTED

CONSTITUTION ACT 1889 WA - SECT 73 (2)(g)

73(2)

Legislature as constituted by this Act empowered to alter any of its provisions

(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,

*The Six Sections -*

*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,*

*The Electors -*

and a Bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

*"The Invalidity"*

SECTION 73 2 (G)

That provision, your Honours might note, has now been eliminated by section 9(2) of the *Australia Acts* but it was there in 1978. The second, your Honours, in section 73(2)(g) there is a provision that the Bills to which 73(2) applies, after passage through the two Houses, are to be "approved by the electors" before presentation. So those true qualifications, the requirement in section 2(3) that a Bill be presented to the Governor after passage through both Houses. Your Honours might note that the construction of - - -

KIRBY J: Let me just get it clear. The point you are making is that each of those are steps that follow passage and therefore they do not touch upon the express mention of passage being, in your submission, due or lawful passage whilst in the chambers of Parliament.

MR GAGELER: Exactly. The duty or requirement of section 2(3) is to do something after passage. Those two conditions, at least certainly the second of them, impose a qualification to that requirement to do something immediately after passage. The second of them certainly inserts another step.

Your Honours, that construction of section 2(3) is, in our submission, strongly supported – we would say compelled – by the principle of harmonious construction, to which we refer in paragraph 33 of our submissions. It is equally supported, in our submission, by the context. If your Honours look at section 2(3), your Honours will see that it was introduced together with and follows immediately after section 2(2), section 2(2) defining the Parliament of Western Australia to include the Queen, and section 2(3) then in substance defining the role of the Governor as the Queen’s representative in the workings of Parliament, that is in the enactment of legislation, a role that expressly, in the words of section 2(3), cuts in after the passage of a Bill through both Houses.

MR GAGELER IS NOW A HIGH COURT JUDGE

THE ISSUE RAISED IN THE TRANSCRIPT IN  
RELATION TO SECTION 73 2 (G) [ELECTORS]

DID NOT ARISE IN THE HIGH COURT JUDGMENT