

A. MR IAN GRAY,

B. This contains the CRIMINAL  
CHARGE of MISPRISON of TREASON  
on MR IAN GRAY plus his  
GRAND Jury APPLICATION LOGGED  
29 January 2007 - But CONCEALED  
By Victorian Judicial OFFICERS  
plus RELEVANT CRIMINAL LAW.

LOGGED  
THIS INFO  
JUNE 2020

# Charge and Summons

(Bring this with you to Court)

*FORMER  
CHIEF MAGISTRATE*

## TO THE DEFENDANT

Mr Ian Leslie Gray  
Chief Magistrate  
Magistrates Court of Victoria  
233 William Street  
Melbourne Victoria

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

You have been Charged with an offence against the Law  
Read both pages to see what you must do

## Details of the charges against you

What is the charge ?

**1** The Defendant did at Melbourne Magistrate Court in the State of Victoria on the 15th December 2006, did unlawfully agree with the Commonwealth Director of Public Prosecutions, Mr Damian Bugg, and the Director of Public Prosecutions Victoria Mr Paul Coghlan to conceal the serious indictable offence of Treason by failing to prosecute the offence or hold the offenders to bail in accordance with Rule of Law. The offence of Treason was created by the Overt Act of Treason, titled, "Acts Amendment and Repeal Courts and Legal Practice Act 2003 WA", [Part 5 & 8 of such Act] such amendments to such Act were agreed to by the State of Western Australia and "the Commonwealth" without lawful involvement nor consent of the Electorate in accordance with Section 73(2) of the Western Australian Constitution Act in addition to Section 128 of the Commonwealth Constitution Act 1900, such Act being the Superior Act in Australia encompassing a Law of the United Kingdom involving both Houses of the United Kingdom, the House of Commons And House of Lords

*Misprison  
of  
Treason  
I can't*

Under what Law ?

State  Act  Other-specify  
 C'wealth  Reg

Act or Regulation No.  
Common Law

Section or Clause (Full Ref)  
**Misprison of Treason**

Type of offence

Summary offence (you should go to Court)  Indictable offence (you must go to Court)

Are there more charges ?

No  Yes -see "Continuation of charges" attached

Informant

*BRIAN SHAW*

Agency and Address

*280 LAKES ROAD*

Informant Signature

*TRUBERNIA  
[Signature]*

Phone No. *9394116*

Date

## Where will the case be heard

Where you must go

The \*Magistrates' / Childrens' Court of Victoria at Melbourne

Address

233 William Sreet Melbourne Victoria

*29 January 2007*

Phone No.

When

Time *10.00 AM*

Day *29th*

Month *JANUARY*

Year *2007*

## Details about this summons

Issued at

MELBOURNE

Date

*20 DEC 2006*

Issued by  
Signature

*[Signature]*  
Magistrate

Registrar  Magistrate  Other

Charge filed at

MELBOURNE

Date

*20 DEC 2006*

*SCOTT  
M. DOWNEY*

*# Remains Pending Grand Jury  
(All process has been completed.)*

AFFIDAVIT OF SERVICE

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

That on the 2 day of January 2007 ( ), I served a charge and

summons returnable 29<sup>th</sup> January 2007, in the Magistrates Court of Victoria at

Melbourne, 233 William Street Melbourne, on IAN GRAY by

AS MC

Sending

~~leaving~~ the charge and summons with

REGISTERED POST

RD 51515873 (JANUARY 2 2007)

Informant:

BRIAN SHAW

Defendant:

IAN GRAY

Affirmed by

[Signature]

At

WERRIBEE

in the State of Victoria

This

2<sup>nd</sup>

day of January 2007

STAFF AT THE  
COURT TOLD  
ME TO SEND THE  
CHARGE & SUMMONS  
BY REGISTERED POST.

Before me

Margaret Campbell

Justice of the Peace

# CRIMINAL CODE ACT 1995

## Chapter 5 -- The security of the Commonwealth

### Part 5.1 -- Treason and urging violence

#### Division 80 -- Treason and urging violence

#### 80.1A Definition of *organisation*

In this Division: "*organisation*" means:

(a) a body corporate; or

(b) an unincorporated body;

whether or not the body is based outside Australia, consists of persons who are not Australian citizens, or is part of a larger organisation.

#### Subdivision B -- Treason

#### 80.1 Treason

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

- (a) receives or assists another person who, to his or her knowledge, has committed an offence against this Subdivision (other than this subsection) with the intention of allowing him or her to escape punishment or apprehension; or
- (b) knowing that another person intends to commit an offence against this Subdivision (other than this subsection), 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.**

IN THE SUPREME COURT OF VICTORIA  
FULL COURT; CRIMINAL JURISDICTION

No: \_\_\_\_\_ of 2007

IN THE MATTER of the Crimes Act 1958

And

IN THE MATTER of an Application by

Brian William Shaw

**APPLICATION FOR GRAND JURY**

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:

**Mr Ian Leslie Gray, Chief Magistrate  
Magistrates Court of Victoria**

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.

*To be Remitted because  
warrant was the Fingerprint from Hand  
for the Accused (Queen Grievous)*

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***

8. **JUDICIARY ACT 1903 (CTH) SECTION 80**

**Common law to govern**

*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.*

9. **TREASON & MISPRISON OF TREASON:**

**Must be by Grand Jury Exclusively**

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)

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 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*

**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*

**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.

DATED the 29<sup>th</sup> January 2007

This Application is filed by



Brian William Shaw

280 Leakes Road  
Truganina Victoria 3030

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 involved my lawyer)

- (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".

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

(Removal and Substitution)

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

(Declaration of War)

(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".

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

(Removal)

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

(Removal)

(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".

Substitution

(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".

(Removal and Substitution)

(Branch of allegiance is the element for treason)

The entire Executive Committee

No referendums caused or conducted

The Referendum Requirement Section 128.

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

SECTION 128 - Mode of altering the Constitution

It This Constitution shall not be altered except in the following manner:

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State and Territory to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State and Territory qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in

CRIMES ACT 1914 - SECT 34

(Commonwealth)

Judge or magistrate acting oppressively or when interested

(1) Any person who:

(a) being a judge or magistrate and being required or authorized by law to admit any person accused of an offence against the law of the Commonwealth to bail, in abuse of his or her office, requires excessive and unreasonable bail; or

(b) being a judge or magistrate, intentionally and perversely exercises federal jurisdiction in any matter in which he or she has a personal interest;

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

The Constitution of the  
Discouraged? - Treason  
By the Judiciary  
Activities This imprisonment  
offence upon Magistrates  
and Judges  
inclusion of  
High Court Judges

Criminal Code Act 1995  
(Commonwealth)  
The Security of the Commonwealth

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80.1 Treason

(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.

the police ← STATE POWER  
FEDERAL POWER.

Chapter 5

The security of the Commonwealth

80.1 Treason

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

(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.

The Police

Penalty: Imprisonment for life.

CRIMES ACT 1914 - SECT 24AA (Commonwealth)

Treachery

A person shall not:

do any act or thing with intent:

to overthrow the Constitution of the Commonwealth by  
revolution or sabotage; or

SABOTAGE.

*Penalty: Imprisonment for life.*

LIFE IMPRISONMENT

CRIMES ACT 1914 - SECT 44 (Commonwealth)

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.

Every Court within Victoria  
has compounded any concealed  
over a number of years

Courts within Victoria includes  
the Court situated on the  
corner of Williams and La Rose  
the Federal and High Court.

CRIMES ACT 1914 - SECT 43 (Commonwealth)

Attempting to pervert justice

Any person who attempts, in any way not specially defined in this Act, to obstruct, prevent, pervert, or defeat, the course of justice in relation to the judicial power of the Commonwealth, shall be guilty of an offence.

*Penalty: Imprisonment for 5 years. ✕*

CRIMES ACT 1914 - SECT 42 (Commonwealth)

Conspiracy to defeat justice

Any person who conspires with another to obstruct, prevent, pervert, or defeat, the course of justice in relation to the judicial power of the Commonwealth, shall be guilty of an indictable offence.

*Penalty: Imprisonment for 5 years.* *lx*

CRIMES ACT 1914 - SECT 6 (Commonwealth)

Accessory after the fact

Any person who receives or assists another person, who is, to his or her knowledge, guilty of any offence against a law of the Commonwealth, in order to enable him or her to escape punishment or to dispose of the proceeds of the offence shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

Accessory After the Fact  
Does not apply in relation  
to Treason  
the same principle  
to the offence

Crimes Act 1958 - SECT 326 (Victoria)

Concealing offences for benefit

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

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

(5) The compounding of an offence other than treason shall not be an offence otherwise than under this section.

A

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Crimes Act 1958 - SECT 316 (Victoria)

Unlawful oaths to commit treason, murder etc.

Every person who-

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 takes any such oath or engagement not being compelled to do so; or induces or attempts to induce any person to take any such oath or engagement - shall be guilty of an indictable offence, and shall be liable to level 5 imprisonment (10 years maximum).

10 YEARS IMPRISONMENT.

EVERY PERSON WITHIN VICTORIA WHO HAS  
SUBMITTED TO BOTH TAKING ANY  
ADMINISTRATIVE MASONIC OATHS / OBSERVATIONS  
HAS COMMITTED THIS OFFENCE AND  
CONTINUES TO COMMIT THE OFFENCE.

Crimes Act 1958 - SECT 316 (Victoria)

Unlawful oaths to commit treason, murder etc.

(2) Every person who-  
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; shall be guilty of an indictable offence, and shall be liable to level 6 imprisonment (5 years maximum).

(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).

( 5 years ).

Crimes Act 1958 - SECT 81 (Victoria)

Obtaining property by deception

A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

10 YEARS imprisonment

Any Court officer, since the  
Criminal Revision of the  
Queen (January 2004)

is working outside of a

new constitutional basis  
of power and as such  
can be criminally charged

Crimes Act 1958 - SECT 82 (Victoria)

Obtaining financial advantage by deception

A person who by any deception dishonestly obtains for himself or another any financial advantage is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

10 YEARS max IMPRISONMENT.

\_\_\_\_\_

The Queen was CRIMINAL  
REMOVED JANUARY 2004  
AND AS SUCH THIS OFFENCE APPLICABLE

\_\_\_\_\_

**Crimes Act 1958 - SECT 322E (Victoria)**

**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.

*The Twin offences*

Crimes Act 1958 - SECT 181 (Victoria)

Aiding and abetting offences within or outside Victoria

Every person who being within Victoria knowingly aids, abets, counsels, or procures, or who attempts or takes part in or is in any way privy to-  
doing any act or thing in contravention of this subdivision;  
doing any act or thing outside Victoria, or partly within and partly outside Victoria, which if done within Victoria would be in contravention of this subdivision-  
shall be guilty of an indictable offence, and shall- be liable if a corporation to a level 5 fine and if any other person to level 5 imprisonment (10 years maximum) or a level 5 fine or both.

Victoria or outside of Victoria.

Corporation or Natural Person

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Crimes Act 1958 - SECT 321 (Victoria)

Conspiracy to commit an offence

Subject to this Act, if a person agrees with any other person or persons that a course of conduct shall be pursued which will involve the commission of an offence by one or more of the parties to the agreement, he is guilty of the indictable offence of conspiracy to commit that offence.

## Crimes Act 1958 - SECT 321A (Victoria)

### Agreements to commit offences outside Victoria

The expression the commission of an offence in section 321(1) extends to the commission of an offence against a law in force only in a place outside Victoria if, but only if, the necessary elements of that offence include elements which, if present or occurring in Victoria, would constitute an offence against a law in Victoria; and one or more of the persons referred to in section 321(1) is or are in Victoria when the agreement referred to in that subsection is made.

Where all parties to an agreement are outside Victoria when it is made, section 321 shall apply in relation to it if, but only if, that agreement is to pursue a course of conduct which, if the agreement is carried out in accordance with their intentions, will necessarily amount to or involve the commission of an offence against a law in force in Victoria.

**Crimes Act 1958 - SECT 321M (Victoria)**

**Attempt**

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

Crimes Act 1958 - SECT 323 (Victoria)

Abettors in indictable offences triable as principal offenders

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

Principal offence

Crimes Act 1958 - SECT 325 (Victoria)

Accessories

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

(4) A person convicted of an offence against subsection (1) shall be liable- if the principal offence is one for which the penalty is level 1 imprisonment (life) to level 3 imprisonment (20 years maximum); or



## Conspiracy to Cheat and Defraud

In Victoria, Crimes Act s.321F abolishes the common law offence of conspiracy but preserves the separate common law offences of conspiracy to cheat and defraud and conspiracy to defraud. A statutory offence of conspiracy is defined by s.321:

- (1) Subject to this Act, if a person agrees with any other person or persons that a course of conduct shall be pursued which will involve the commission of an offence by one or more of the parties to the agreement, he is guilty of the indictable offence of conspiracy to commit that offence.
- (2) For a person to be guilty under sub-section (1) of conspiracy to commit a particular offence both he and at least one other party to the agreement--
- (a) must intend that the offence the subject of the agreement be committed; and
- (b) must intend or believe that any fact or circumstance the existence of which is an element of the offence will exist at the time when the conduct constituting the offence is to take place.

Agreements to commit an offence outside Victoria are included: s.321A; *R v Hamilton-Byrne* [1995] 1 VR 129. The acquittal of an alleged co-conspirator is inconsequential unless inconsistent: s.321B; *R v Darby* (1982) 148 CLR 668 and, though concerning alleged completed offences, *Osland v R* [1998] HCA 75, (1998) 197 CLR 31.

If the prosecution believes it has effective count for a substantive offence then it should proceed with those counts. If there is some real basis for doubting that the offence had been committed there may perhaps be justification in alleging a conspiracy. Generally speaking, it is undesirable that conspiracy should be charged when a substantive offence has been committed and there is a sufficient and effective count that this offence has been committed. *Hoar v R* [1981] HCA 67, (1981) 148 CLR 32.

As to common law conspiracy to defraud under Victorian law, see *R v Walsh and Harney* [1984] VR 474. As to extra-territoriality of common law conspiracy to defraud, see *Lipohar v R* [1999] HCA 65, (1999) 200 CLR 48. The requirement of nexus should be liberally applied; a real connection with the jurisdiction will suffice. This seems to displace a narrower view of extra-territoriality taken in *Re Hamilton-Byrne* [1995] 1 VR 129.

For presentment of conspiracy, conspiracy to cheat and defraud or conspiracy to defraud, the approval of the Director of Public Prosecutions is required: s.321(4), s.321F(4).

DIRECTOR of PUBLIC PROSECUTIONS

DAMIAN BUBB (CIT)

PAUL COBURN (STATR)

ALREADY CHARGED

Crimes Act 1958 - SECT 320

Maximum term of imprisonment for certain common law offences

An offence at common law specified in column 1 of the Table is punishable by the maximum term of imprisonment specified opposite it in column 2 of the Table.

Column 1	Column 2
	Maximum Term of Imprisonment
<i>Common law offence</i>	
Affray	Level 6 imprisonment (5 years maximum)
Attempt to pervert the course of justice	Level 2 imprisonment (25 years maximum)
Breach of prison	Level 6 imprisonment (5 years maximum)
Bribery of public official	Level 5 imprisonment (10 years maximum)
Common assault	Level 6 imprisonment (5 years maximum)
Conspiracy to cheat and defraud	Level 4 imprisonment (15 years maximum)
Conspiracy to defraud	Level 4 imprisonment (15 years maximum)
Criminal defamation	Level 5 imprisonment (10 years maximum)
Embracery	Level 4 imprisonment (15 years maximum)
False imprisonment	Level 5 imprisonment (10 years maximum)
Kidnapping	Level 2 imprisonment (25 years maximum)
Misconduct in public office	Level 5 imprisonment (10 years maximum)
Perverting the course of justice	Level 2 imprisonment (25 years maximum)
Public nuisance	Level 6 imprisonment (5 years maximum)
Riot	Level 5 imprisonment (10 years maximum)
Rout	Level 6 imprisonment (5 years maximum)
Unlawful assembly	Level 6 imprisonment (5 years maximum)



unlawful assembly any Parliament  
 Auxiliary Powers AFTER the  
 Criminal Remission of the Queen  
 on 1 January 2000.

# Crimes Act 1958 - SECT 321P

## Penalties for attempt

(1) A person convicted of attempting to commit an offence is liable-

(a) if the penalty for the relevant offence is set out by reference to an expression specified in column 1 of the Table, to the penalty set out opposite it in column 2 of the Table:

<i>Column 1</i>	<i>Column 2</i>
Level 1 imprisonment (life)	Level 2 imprisonment (25 years maximum)
Level 2 imprisonment (25 years maximum)	Level 3 imprisonment (20 years maximum)
Level 2 fine (3000 penalty units maximum)	Level 3 fine (2400 penalty units maximum)
Level 3 imprisonment (20 years maximum)	Level 4 imprisonment (15 years maximum)
Level 3 fine (2400 penalty units maximum)	Level 4 fine (1800 penalty units maximum)
Level 4 imprisonment (15 years maximum)	Level 5 imprisonment (10 years maximum)
Level 4 fine (1800 penalty units maximum)	Level 5 fine (1200 penalty units maximum)
Level 5 imprisonment (10 years maximum)	Level 6 imprisonment (5 years maximum)
Level 5 fine (1200 penalty units maximum)	Level 6 fine (600 penalty units maximum)
Level 6 imprisonment (5 years maximum)	Level 7 imprisonment (2 years maximum)
Level 6 fine (600 penalty units maximum)	Level 7 fine (240 penalty units maximum)
Level 7 imprisonment (2 years maximum)	Level 8 imprisonment (1 year maximum)
Level 7 fine (240 penalty units maximum)	Level 8 fine (120 penalty units maximum)
Level 8 imprisonment (1 year maximum)	Level 9 imprisonment (6 months maximum)
Level 8 fine (120 penalty units maximum)	Level 9 fine (60 penalty units maximum)
Level 9 imprisonment (6 months maximum)	Level 10 fine (10 penalty units maximum)
Level 9 fine (60 penalty units maximum)	Level 10 fine (10 penalty units maximum)
Level 10 fine (10 penalty units maximum)	Level 11 fine (5 penalty units maximum)
Level 11 fine (5 penalty units maximum)	Level 12 fine (1 penalty unit maximum)
Level 12 fine (1 penalty unit maximum)	Level 12 fine (1 penalty unit maximum)

**Criminal Code Act 1995 Commonwealth**

**Division 11**

**11.1 Attempt**

(1) A person who attempts to commit an offence is guilty of the offence of attempting to commit that offence and is punishable as if the offence attempted had been committed.

(2) For the person to be guilty, the person's conduct must be more than merely preparatory to the commission of the offence. The question whether conduct is more than merely preparatory to the commission of the offence is one of fact. — *Jury Issue*

(3) For the offence of attempting to commit an offence, intention and knowledge are fault elements in relation to each physical element of the offence attempted.

Note: Under section 3.2, only one of the fault elements of intention or knowledge would need to be established in respect of each physical element of the offence attempted.

(3A) Subsection (3) has effect subject to subsection (6A).

(4) A person may be found guilty even if:

- (a) committing the offence attempted is impossible; or
- (b) the person actually committed the offence attempted.

(5) A person who is found guilty of attempting to commit an offence cannot be subsequently charged with the completed offence.

(6) Any defences, procedures, limitations or qualifying provisions that apply to an offence apply also to the offence of attempting to commit that offence.

(6A) Any special liability provisions that apply to an offence apply also to the offence of attempting to commit that offence.

(7) It is not an offence to attempt to commit an offence against section 11.2 (complicity and common purpose), section 11.2A (joint commission), section 11.3 (commission by proxy), section 11.5 (conspiracy to commit an offence) or section 135.4 (conspiracy to defraud).

Criminal Code Act 1995 Commonwealth

Division 11

11.2 Complicity and common purpose

(1) A person who aids, abets, counsels or procures the commission of an offence by another person is taken to have committed that offence and is punishable accordingly.

(2) For the person to be guilty:

- (a) the person's conduct must have in fact aided, abetted, counselled or procured the commission of the offence by the other person; and
- (b) the offence must have been committed by the other person.

(3) For the person to be guilty, the person must have intended that:

- (a) his or her conduct would aid, abet, counsel or procure the commission of any offence (including its fault elements) of the type the other person committed; or
- (b) his or her conduct would aid, abet, counsel or procure the commission of an offence and have been reckless about the commission of the offence (including its fault elements) that the other person in fact committed.

(3A) Subsection (3) has effect subject to subsection (6).

(4) A person cannot be found guilty of aiding, abetting, counselling or procuring the commission of an offence if, before the offence was committed, the person:

- (a) terminated his or her involvement; and
- (b) took all reasonable steps to prevent the commission of the offence.

*H*

(5) A person may be found guilty of aiding, abetting, counselling or procuring the commission of an offence even if the other person has not been prosecuted or has not been found guilty.

*\**

(6) Any special liability provisions that apply to an offence apply also for the purposes of determining whether a person is guilty of that offence because of the operation of subsection (1).

(7) If the trier of fact is satisfied beyond reasonable doubt that a person either:

- (a) is guilty of a particular offence otherwise than because of the operation of subsection (1); or
- (b) is guilty of that offence because of the operation of subsection (1);  
but is not able to determine which, the trier of fact may nonetheless find the person guilty of that offence.

*Juay*

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The law of TREASON  
AND MISPRISON OF TREASON  
inclusive of 'The Police'



# The Constitution

SECTION 44 (ii)

'ATTAINERS OF TREASON'

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*Font*

Treason and/or Foreign Allegiance

Disqualifies

Senator or House of Representatives

From sitting in

Either House

COMMONWEALTH CONSTITUTION ACT

SECTION 44

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

*A* (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

*A* Shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives. *X*

# Treason

*“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]

*“KB” is King Bench - United Kingdom.*

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Crimes Act 1958 – Section 354

Indictments

*Upon the application of any person supported by an affidavit disclosing an indictable offence and either that the same has been committed by some body corporate or that a court has declined or refused to commit or hold to bail the alleged offender or that no presentment was made against him at the court at which the trial would in due course have taken place, or upon the application of the Director of Public Prosecutions, it shall be lawful for the Full Court to order the Juries Commissioner to summon a grand jury to appear at a court to be holden at a time and place to be mentioned in the order; and upon receipt of such order the Juries Commissioner shall summon not less than twenty-three men to attend at such court at the time and place aforesaid to inquire present do and execute all things which on the part of the Queen shall then and there be commanded of them, and such men shall be taken from the jury roll of the jury district in which such place is situate and at the time and place aforesaid the said Juries Commissioner shall bring into court the said order with the name, occupation and date of birth of every grand juror written on a panel signed by him and sealed with his seal of office and shall deliver the said panel to the proper officer of the said court, who shall in open court call aloud the names of the grand jurors on the said panel one after another, and the twenty-three men so first drawn and appearing or if twenty-three men shall not appear such of them as do appear not being less than twelve men shall be the grand jury and shall be sworn and act as such accordingly:*

*Provided always that every such order shall be delivered to the Juries Commissioner ten days before the day on which the indictment is intended to be preferred.*

**Grand Jury**

Indictment: By Grand Jury

COMMONWEALTH OF AUSTRALIA  
CONSTITUTION ACT

SECTION 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.

The Constitutional Right  
AND GUARANTEE

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**Halsbury's Laws of England 2<sup>nd</sup>**

**Edition Vol 6 at page 395 par 441**

**states:**

*"The Law of AUSTRALIA"* SS.

*"Since the Crown is the symbol of free association of the members of the British Commonwealth of Nations, which are united by a common allegiance to the Crown"*