

JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA
IN CHAMBERS

CITATION : SHAW -v- ATTORNEY GENERAL FOR THE
STATE OF WESTERN AUSTRALIA & ANOR
[2005] WASC 149

CORAM : MCKECHNIE J

HEARD : 28 JUNE 2005

DELIVERED : 28 JUNE 2005

FILE NO/S : CIV 1128 of 2005

MATTER : Section 6 of the *Vexatious Proceedings Restriction Act*
2002 (WA)

BETWEEN : BRIAN WILLIAM SHAW
Applicant

AND

ATTORNEY GENERAL FOR THE STATE OF
WESTERN AUSTRALIA
First Respondent

COMMONWEALTH DIRECTOR OF PUBLIC
PROSECUTIONS
Second Respondent

ON APPEAL FROM:

Jurisdiction : SUPREME COURT OF WESTERN AUSTRALIA
Coram : COMMISSIONER BRADDOCK SC
Citation : ATTORNEY GENERAL & ANOR -v- SHAW [2004]
WASC 280
File No : CIV 2264 of 2004

Catchwords:

Vexatious litigant - Application to appeal against order - Principles - State Constitution - Whether Act repealing reference to Her Majesty voids Court's jurisdiction - Allegations of Freemasonry - Whether evidence of unlawfulness - Bias of Judge - Whether impartial

Legislation:

Vexatious Proceedings Restriction Act 2002 (WA), s 6
Constitution Act 1899 (WA), s 51, s 73
Australia Act (1986) (Cth)
Supreme Court Act 1935 (WA)

Result:

Application refused

Category: A

Representation:

Counsel:

Applicant : In person
First Respondent : Mr S M Murphy
Second Respondent : Ms C Petroboni

Solicitors:

Applicant : In person
First Respondent : State Solicitor's Office
Second Respondent : Commonwealth Director of Public Prosecutions

Case(s) referred to in judgment(s):

Attorney General & Anor v Shaw [2004] WASC 280
Attorney-General (WA) v Marquet [2003] HCA 67; 202 ALR 233
Beecham Group Ltd v Bristol Laboratories Pty Ltd (1967-8) 118 CLR 618
Byrne v Armstrong (1899) 25 VLR 126
Commonwealth Bank of Australia v Ridout [2004] WASC 136
Ebner v Official Trustee in Bankruptcy [2000] HCA 63; 205 CLR 337
Hadley v Baxendale (1854) 9 Exch 341
Hunter v Commissioner of Police [2003] WASC 10
Johnson v Johnson [2000] HCA 48; 201 CLR 488
Koufos v C. Czarnikow Ltd [1969] 1 AC 350
Re Shaw [2001] VSCA 175; (2001) 4 VR 103
Shercliff v Engadine Acceptance Corp Pty Ltd (1978) 1 NSWLR 729

Case(s) also cited:

Arcus Shopfitters Pty Ltd v Western Australian Planning Commission [2004]
WASC 84
Attorney General v Hunter [2002] WASC 189
Attorney General v Michael & Anor [1999] WASCA 181
State of Western Australia & Ors v Wilsmore [1981] WAR 179
The State of Western Australia & Ors v Wilsmore (1981) 149 CLR 79

MCKECHNIE J

1 **MCKECHNIE J:** These proceedings seemed to be characterised by
2 zealotry, a condition that often afflicts litigants *pro se*.

3 This is an application for leave to file a notice of appeal against a
4 decision of Braddock C declaring the applicant a vexatious litigant:
5 ***Attorney General & Anor v Shaw*** [2004] WASC 280.

6 Leave is necessary: *Vexatious Proceedings Restriction Act 2002*, s 3
7 Interpretation "institute proceedings" (d), and s 6(1).

8 Jenkins J ordered that the application be served on the proposed
9 respondents to the appeal. Each has filed submissions to oppose the grant
10 of leave.

11 The application is supported by an affidavit of the applicant dated
12 10 February 2005, a supplementary affidavit dated 27 February 2005 and,
13 following an appearance before Jenkins J on 24 March 2005 in which
14 Jenkins J granted the applicant's request for an adjournment, a further
15 affidavit of 15 April 2005. I have read all the affidavits and annexures,
16 together with the submissions of the respondents.

The question of bias

17 The applicant asserts that the judiciary in this State is corrupt in that
18 it permits Masonic activity. He also questions my impartiality.

19 I am acquainted with Mr McGinty, the first respondent, and
20 Mr Bugg QC, the second respondent. For completeness, I mention that I
21 am also acquainted with Murray J, Master Newnes and Mr Robert
22 Cock QC, each of whom was the subject of proceedings brought by the
23 applicant.

24 The test for bias is authoritatively stated by the High Court in
25 ***Johnson v Johnson*** [2000] HCA 48; 201 CLR 488 at [11] and [12].

26 That test was confirmed in ***Ebner v Official Trustee in Bankruptcy***
27 [2000] HCA 63; 205 CLR 337 at [6].

28 A Judge has a duty to exercise his or her judicial functions: ***Ebner***
29 at [19] and [21].

30 I have reflected on this case and whether my association with the
31 parties reflects upon my ability to sit on this matter or whether a
32 perception of bias might arise in the eyes of a fair-minded lay observer.

12 I have reached the conclusion that it does not. Action has been taken against the respondents, and the other persons, in respect of their public offices albeit offices they are said to have abused. The issues to be resolved in this application are legal issues. They do not relate to questions of credit or credibility.

13 Most importantly, in my view, this is an application for leave. The decision of Braddock C relevantly declared the applicant to be a vexatious litigant. If there are proper grounds to institute an appeal then leave should be granted. If not, then, as a matter of law, leave should be refused. Even a successful appeal will not revive the charges against the respondents or any other party.

14 Finally, it is necessary for a judge to be found to deal with this application, despite the allegations made against the whole Court. Every Judge knows Murray J and Master Newnes. Probably every Judge knows Mr McGinty and Mr Cock QC.

15 I am in no different a position than any other Judge except that some may not be personally acquainted with Mr Bugg QC. Of necessity, therefore, this application will have to be determined by a Judge with personal knowledge of some of the parties.

The legal principles for the grant of leave

16 The Court is not to grant leave unless satisfied that:

- (a) the proceedings are not vexatious proceedings; and
- (b) there is a *prima facie* ground for the proceedings.

17 Each of these conditions must be fulfilled before leave is granted: *Vexatious Proceedings Restriction Act 2002 (WA)*, s 6(7).

General observations

(a) *Is this application a vexatious proceeding?*

18 My first observation is that this application perpetuates the errors of law and confusion of thought that characterised the proceedings before Braddock C and with which she dealt comprehensively.

19 The only relevant difference between this application and the matters argued before the Commissioner is that Braddock C now appears, in the applicant's eyes, to have embraced the dark side of the force: see grounds 16 and 18.

20 A flavour of the proposed grounds of appeal can be gleaned in grounds 6, 7, 16, 18 and 27. The applicant appears obsessed with Freemasonry.

21 The various affidavits in support of the application do not advance the applicant's case. They consist in part of annexures containing transcript, articles about Freemasonry, letters from supporters, various charges instituted by the applicant and subsequently dismissed. In fact, they match the description of the material proffered to the Court in *Re Shaw* [2001] VSCA 175; (2001) 4 VR 103 at [16], a case also involving the applicant.

22 There is little coherence to the grounds of appeal or the selected material said to support them. The applicant displays a profound confusion of legal principles, coupled with an irrational obsession that all in authority who hold views different from his own are either guilty of abusing their office, or of treasonable activities.

23 The processes of the Courts of Justice are generally open to all who seek to have their rights declared or enforced. The ability to approach the Courts to seek vindication of a right is a hallmark of contemporary democratic Australia and there are few who would wish to fetter that right. Judges may be and often are criticized for their decisions; sometimes temperately, sometimes less so. However, the judicial arm is the third arm of government and, despite occasional criticism, is generally respected in the Australian community.

24 It is therefore no light thing to restrict access to the Courts. Yet, sometimes, the power must be exercised. Proceedings which have as their hallmark the pursuit of extraneous claims or to harass will be stayed as an abuse of the Court in its inherent power. Persons can be declared to be vexatious under the *Vexatious Proceedings Restriction Act*.

25 The reason for taking such action is three-fold. First, there is a private right to be upheld. That is the right of a person not to be subjected to repeated harassment and cost in the guise of apparently legitimate proceedings. This right is extended to persons who exercise responsibility as the holder of a public office although the Court is probably a little less robust in their protection than persons who are pursuing protection as private individuals.

26 Second, there is the public interest in maintaining the integrity of the judicial process. This takes a number of forms. An active independent judiciary is one of the hallmarks of a modern democratic trading State.

There must be confidence in the judicial institutions. This confidence can be eroded if it is seen that the processes are subverted and abused.

27 Next, judicial resources, as with so many resources paid for by taxpayers, are scarce resources and must be husbanded to be of most effect. Resources are wasted when diverted to dealing with vexatious applications and applications that are hopeless in law.

The proposed grounds of appeal

28 From these general observations I turn specifically to the grounds of this appeal. I am mindful that this is an application for leave to institute an appeal declaring the applicant as vexatious. Therefore, I set to one side for the moment the decision of Braddock C and look solely at this application on its merits.

29 The application asserts what is said to be the creation of various torts against the applicant – grounds 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 22, 24.

30 Even if the behaviour alleged could possibly give rise to a cause of action in tort, such a pleading in an application for leave to commence an appeal in this case is embarrassing, irrelevant and vexatious. Such a cause of action has no nexus to the decision of Braddock C.

Grounds 1, 2, 3, 8 and 9

- "1. The Jurisdiction of the Supreme Court of the State of Western Australia was usurped on 1st January 2004, by the enactment of the 'Acts Amendment and Repeal (Courts and Legal Practice) Act 2003' (The Overt Act) in particular section 130 of the said Act, creating a tort against the Appellant.
2. The Supreme Court of the State of Western Australia was ad [*sic*] remains out of Jurisdiction since 1st January 2004.
3. Commissioner Braddock was not sitting in correct legal authority or Jurisdiction at the time of the hearing and judging the matter because of the Overt Act, Commissioner Braddock erred in Law and Fact by not addressing the Jurisdiction issue correctly.

...

8. The Constitution of the State of Western Australia contains a State Referendum requirement at section 73, legally updated in 1978. This legal requirement was not abided by in altering sections 50 & 51 with the enactment of the Australia Act in 1986, in particular (section 14) dealing with the Western Australia Constitution, amounting to a tort against Appellant.
9. The illegal enactment of the Australia Act in the State of Western Australia, Affecting sections 50 & 51 unlawfully precipitated the illegal enactment of the Overt Act 'Acts Amendment and Repeal (Courts and Legal Practice) Act 2003' in the State of Western Australia on 1st January 2004, by Governor Sanderson and Attorney General Mr McGinty (First Applicant/Respondent), amounting to a tort against the Appellant."

31 Grounds 1, 2 and 3 depend for their success on a legal argument that is hopelessly misconceived. In grounds 1, 2, 3, 8 and 9 the applicant raises a general jurisdictional issue. Regardless of whether the issue was raised before Braddock C, a challenge to jurisdiction is always entertained on appeal. So the mere fact that this may be the first time the ground is explicitly raised is of itself no bar. However, it is necessary to examine the proposition.

32 The argument, as I understand it, is that the *Acts Amendment and Repeal (Courts and Legal Procedure) Act 2003* is *ultra vires* and/or illegal.

33 It is said that it effects a change to the jurisdiction of the Court. It was assented to by the Governor when it should have been reserved to Her Majesty. It failed to follow the manner and form provisions of the *Constitution Act 1899* (WA), s 73. It may be that the applicant's submissions on s 73 relate more to the *Australia Act* s 14 which he contends may be illegal.

34 The *Australia Act* is a composite term referring to complementary legislation passed by all States, including Western Australia, (*Australia Request and Consent Act 1985*), The Commonwealth and the Parliament of Great Britain.

35 Their validity has been accepted: *Attorney-General (WA) v Marquet* [2003] HCA 67; 202 ALR 233. The effect of the *Australia Act*, among other things, was to abolish the requirement of reservation of certain Acts

for Her Majesty's assent. If there is any inconsistency between the *Constitution Act* (WA) s 51 and the *Australia Act*, the *Australia Act* prevails.

36 Accordingly, any submission that the Governor acted illegally or beyond power in failing to reserve a Bill for Her Majesty's assent is without merit. Moreover, the *Vexatious Proceedings Restriction Act 2002* was validly assented to and is a lawful exercise of the power of the Parliament to make laws for the peace, order and good government of the State.

37 Of more fundamental impact though is the effect of the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003*. It simply does not have the effect contended, namely, to somehow usurp the jurisdiction of the Court. By s 130 various provisions of the *Supreme Court Act* are amended, principally by deleting reference to "the Crown" and "Her Majesty", and substituting in places "The State" or "The State of Western Australia".

38 The constitution of the Court (*Supreme Court Act*, s 6) and its general jurisdiction (*Supreme Court Act*, Pt III) are entirely unaffected by the amendments.

39 Grounds 1, 2, 3, 8 and 9 have no legal merit.

Ground 4

"4. This action brought by the First and Second Respondents against the Appellant is in total breach of the Public Interest Disclosure Act 2003, Western Australia resulting in a tort against the Appellant, disregarded by Commissioner Braddock."

40 It is not easy to see how the *Public Interest Disclosure Act 2003* (WA) applies in respect of legal action taken in courts and adjudicated upon. The ground is irrelevant.

Grounds 5 and 7

"5. This action by the First and Second Respondents was laid simply to protect the Masonic Lodge from criminal process within the State of Western Australia, (Unlawful Oaths) resulting in a tort against the Appellant, and disregarded by Commissioner Braddock.

...

7. The Supreme Court of the State of Western Australia is the defacto Law Firm of International Freemasonry in the State of Western Australia and as such is involved in protecting and concealing Indictable offences ranging from Treason, Sedition, Conspiracy, Taking and Administering Unlawful Oaths, Attempting to Pervert the Course of Justice, to Concealing and Compounding Offences, but, not limited to these offences, amounting to a tort against the Appellant and disregarded by Commissioner Braddock."

41 Grounds 5 and 7 require evidence which was completely lacking in the materials before Braddock C and in the affidavits in support of these proceedings.

Grounds 10, 11, 12 and 13

- "10. The Constitution of the State of Western Australia is legally bound and subject to the Commonwealth Constitution of Australia, the superior Constitution and as such infringed the Appellant's Constitutional Rights by the illegal enactment of the 'Acts Amendment and Repeal (Courts and Legal Practice) Act 2003', on 1st January 2004, creating a tort against the Appellant.
11. By altering and amending various Acts within Western Australia the Commonwealth Constitution was interfered with, neither was section 128 of said Constitution taken into lawful account nor abided by, thereby creating a tort against the Appellant.
12. All Western Australian Senators and House of Representatives elected 9th October 2004, to the Commonwealth Parliament have concealed the Treason in Western Australia and as such are concealing Treason, which is a Criminal Offence amounting to a tort against the Appellant, disregarded by Commissioner Braddock.
13. The State of Western Australia disregarded the result of the Commonwealth Referendum held in 1999 relevant to the Monarch/Republic issue with the enactment of the 'Acts Amendment and Repeal (Courts and Legal Practice)

Act 2003', on 1st January 2004, creating a tort against the Appellant."

42 Grounds 10, 11, 12 and 13 are incoherent.

Ground 14

"14. The current Attorney General (First Applicant/Respondent), never finished his articles and as such was and remains sitting illegally as Attorney General for the State of Western Australia under the prior Legal Practice Act, purportedly repealed by the New Act (Overt Act), creating a tort against the Appellant, by this present action."

43 Ground 14 requires evidence. There is none. On the contrary, the first respondent has signed the Roll of Practitioners.

Ground 16

"16. Concerning Commissioner Braddock Section 34 of the Crimes Act 1914 applies in this matter in both aspects, 'Acting Oppressively' and 'Personally Interested', creating a tort against the Appellant."

44 Ground 16 appears to accuse Braddock C of an offence against the *Crimes Act*.

45 Such an allegation is irrelevant to any appeal against her decision. It is unsupported by any evidence. All the Braddock C did was sit in judgment and resolve the matter adversely to the applicant. It is perhaps symptomatic of the applicant's conduct that whenever a person in authority disagrees with him they are met with a serious charge of criminal misconduct.

Ground 17

"17. Commissioner Braddock erred in both Law and Fact by paying no Judicial attention to the fact that a '*plea to the Jurisdiction*' within the State of Western Australia is a *Question of Fact*, relevant in this matter because of the Petty Sessions Charges against the First and Second Respondents and *the illegal usurping of Her Majesty*, resulting in a tort to the Appellant."

46 Ground 17 is incoherent. I cannot ascertain from the ground or the supporting material the relevance of a plea to the jurisdiction.

Ground 18

"18. Commissioner Braddock is directly appointed by the First Applicant/Respondent creating an extreme degree of Bias, but at the same time agreeing to the usurping of Her Majesty by the First Applicant/Respondent, resulting in a tort to the Appellant."

47 Ground 18 is without merit. A Commissioner is appointed by the Governor for a limited period and is assigned cases to try.

48 The mere fact of appointment, without more, cannot give rise to an appearance of bias in favour of the Government.

Ground 19

"19. The First Applicant/Respondent unlawfully altered section 154 of the Supreme Court Act of Western Australia by removing '*Her Majesty*' and inserting himself in the place of '*Her Majesty*', thereby breaching all and every Oath of Allegiances within the State of Western Australia and Commonwealth of Australia such removal agreed to by Commissioner Braddock, resulting in a tort against the Appellant."

49 Ground 19 is vexatious. The Parliament, not the first respondent, amended the *Supreme Court Act*.

Grounds 15 and 27

"15. Both the First Applicant/Respondent and the Second Applicant/Respondent have colluded to usurp the Judicial Power of the Commonwealth and as such have committed various Indictable Offences resulting in a Grand Jury Application being lodged at the Victorian Supreme Court, the only Legislation containing Grand Jury Facilities, but disregarded by Commissioner Braddock when mentioned.

...

27. The current Attorney General The First Applicant/Respondent, has no standing in this action

whatsoever because of the fact that he was the primary activator in an Act of Treason and as such the matter must be heard before a Grand Jury in the State of Victoria before this matter proceeds any further."

50 Grounds 15 and 27 , when analysed, do not purport to show error in the reasoning of Braddock C but assert matters against the respondents in the absence of any material either before Braddock C or in support of this application. How a grand jury in Victoria could have any jurisdiction over the respondents for acts said to be done in Western Australia is not immediately clear. What is clear, however, is that the grounds of appeal are vexatious. The applicant in argument mentioned the case of *Byrne v Armstrong* (1899) 25 VLR 126 but did not tell me that it was overruled in a case where the applicant was the litigant, *Re Shaw*.

Grounds 20 and 21

"20. The First Applicant/Respondent is according to law an undischarged defendant from the Court of Petty Sessions (non Appearance) and as such has no standing to bring this action against the Appellant.

21. The Second Applicant/Respondent is according to law an undischarged defendant from the Court of Petty Sessions (non Appearance) and as such has no standing to bring this action against the Appellant."

51 Grounds 20 and 21 are nonsense and therefore vexatious. The standing to bring the application, especially the standing of the Attorney General, is unaffected by their actions in the Magistrate's Court.

Ground 23

"23. An Anshun Estoppel applies in this matter because of the fact that Master Sanderson, Western Australia Supreme Court refused to make the Appellant a Vexatious Litigant in a prior hearing relating to Commonwealth Bank of Australia v Ridouts."

52 Ground 23 displays a fatal misunderstanding of the principle of *estoppel*. Neither the applicant nor the respondents were parties in the action in which Master Sanderson gave judgment: *Commonwealth Bank of Australia v Ridout* [2004] WASC 136.

Ground 25

"25. Commissioner Braddock erred by not permitting the matter to have 78B notices issued under the Judiciary Act 1903, nor any question of law reserved."

53 Ground 25, even if established, does not affect the reasoning of Braddock C's decision.

Ground 26

"26. The Supreme Court has erred in forcing filing fees being a breach of Chapter 29 of Magna Carta

'We shall not sell justice or right to any man'."

54 Ground 26 relating to filing fees is vexatious as it is irrelevant to the appeal.

Ground 28

"28. Commissioner Braddock erred in taking no Judicial notice that the current Governor General the former Governor of Western Australia is in breach of all Criminal Codes containing Unlawful Oaths, because of the fact that the Governor general Mr Jeffrey has taken other oaths and other allegiances."

55 Ground 28 is vexatious. The allegation is irrelevant to any of the actions listed in the judgment of Braddock C at [5]. In any event, such matters must be the subject of evidence not judicial notice.

(b) *Prima facie grounds*

56 The term "*prima facie*" is susceptible of shades of meaning depending upon the circumstances.

57 In *Beecham Group Ltd v Bristol Laboratories Pty Ltd* (1967-8) 118 CLR 618 the High Court, in respect of the matters to be considered in an application for an interlocutory injunction, said at 622:

"The first is whether the plaintiff has made out a *prima facie* case, in the sense that if the evidence remains as it is there is a probability that at the trial of the action the plaintiff will be held entitled to relief."

58 The notion of probability in this setting was explored by Mahoney JA (with whom Glass and Samuels JA agreed) in *Shercliff v Engadine Acceptance Corp Pty Ltd* (1978) 1 NSWLR 729 at 737.

59 "Probability" may mean "more likely than not". In that sense the use of the expression *prima facie* sometimes describes the sufficiency of evidence required to shift the burden of disproof to the other party.

60 However "probability" may also denote a lesser standard of satisfaction. In *Koufos v C. Czarnikow Ltd* [1969] 1 AC 350 Lord Reid, in considering remoteness of damage and the principles of *Hadley v Baxendale* (1854) 9 Exch 341, used the words "not unlikely" as denoting a degree of probability considerably less than an even chance but nevertheless not very unusual and easily foreseeable (at 383).

61 I have referred to this case simply to show that "probability" does not always mean "more likely than not" but may, both in the common and technical use, embrace a notion of sense of persuasion somewhat less than an even balance.

62 Mahoney JA also thought so because in *Shercliff v Engadine Acceptance Corp Pty Ltd* he said at 736:

"In my opinion the 'probability' to which the High Court was referring, was a probability in the sense to which Lord Reid referred and I think that the degree of probability or likelihood of success is simply that which the Court thinks sufficient, in the particular case, to warrant preservation of the *status quo*."

63 What is under consideration in the present case is an application for leave to commence appeal. I am not deciding the appeal.

64 In my opinion s 6(7) does not require a Judge to reach a view that it is more probable than not that the applicant will succeed in the proceedings for which leave is sought: *cf Hunter v Commissioner of Police* [2003] WASC 10 at [18]:

"18. To succeed on this application, s 6(5) of the 2002 Act requires me to dismiss the application if there are no *prima facie* grounds for the proposed proceedings. The ordinary meaning of the words *prima facie* is 'at first sight; on the face of it; as appears at first sight without investigation': *North Ganalanja Aboriginal Corporation v Queensland* (1996) 185 CLR 595 at 615-616; Macquarie

Dictionary. In the present context, the phrase '*prima facie* grounds' means, in my opinion, that there is a legal basis for the claim and that there is some evidence referred to in the affidavit in support of the application which, if accepted, would be capable of sustaining the proceedings: *cf North Ganalanga (supra)* at 639; *May v O'Sullivan* (1955) 92 CLR 654 at 658."

65 Rather, s 6(7) requires that a Judge should also be satisfied that it is not unlikely that the applicant will succeed in the proceedings. This is the test I propose to apply to the proposed grounds of appeal as the proceedings are for an appeal. I suspect there is no practical difference between this test and that proposed by Pullin J in *Hunter*.

66 Applying that test it is clear to me that none of the grounds, either individually or collectively, give any *prima facie* ground for proceeding. None discloses a legally tenable principle.

67 To be a litigant *pro se* is a misfortune not an advantage. While the Court will be assiduous in trying to glean the essence of a litigant's cause of action or grounds of appeal, as the case may be, the Court cannot act for the litigant or give legal advice.

68 If the grounds are largely incoherent, as here, or else depend for success on patently wrong legal principles, the Court cannot, in a pretended exercise of justice, allow a litigant who is unable to formulate a claim to abuse the process of the Court.

69 Underlying all the grounds of appeal is the substance of a submission by the respondents which I think must be accepted. Even if there were some legal merit in any of the points, the taking of criminal legal proceedings against persons is a vexatious manner of proceeding. They are an improper mode of seeking redress.

Conclusion

70 This application for leave is a blend of a little but dangerous and ill-informed legal knowledge, coupled with an unreasoning irrationality bordering on obsession in relation to Freemasonry. Added to the blend is a belief that somehow the alteration of the form of an oath from requiring allegiance to the Queen to requiring allegiance to the State by the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* somehow effected a cataclysmic constitutional upheaval. It did not.

MCKECHNIE J

71 There are no grounds of appeal which are *prima facie* arguable.

72 Furthermore, the form of the grounds, together with the supporting material, make clear that this application is vexatious.

73 The application for leave to commence proceedings by way of an appeal from the decision of Braddock C is refused with costs.