

# PROCLAMATION AND DECREE

**International Crown Unitary Executive/ International Crown Liquidator/ International Crown Receiver and Manager/ International Crown Managing Controller/ International Crown Attorney General Andrew Morton Garrett together with**

**His Majesty King Uluki Waa-Wurrung of the Peoples of Terra Australis**

**hereby proclaim and decree on Friday the Thirteenth Day of March, Two Thousand and Twenty-Six**

Notice pursuant to *the Vienna International Convention on the Law of Treaties* 1969 (UN) and s22 and s31, s32, s23, s34 of *the Vienna International Convention on Succession of States* 1978 (UN) to All Serving Public Officials, Heads of State, and National Leaders Operating Under Commonwealth Jurisdiction

*Notice to principal is notice to agent and  
Notice to agent is notice to principal*

This communication is issued under the lawful authority of:

**Andrew Morton Garrett** in his hereditary public offices as **International Crown Unitary Executive/ International Crown Liquidator/ International Crown Receiver and Manager/ International Crown Managing Controller/ International Crown Attorney General.**

Joint Beneficiary and Issuer of Certificate of International Crown Treaty Series Number One (“CTS-1”) and License Delegating Discretionary Public Powers to Represent:

- The Office of The Liquidator and Managing Controller Appointed to The British Empire (Liquidator and Managing Controller Appointed) ABN 99 627 978 317
- The Office of The Liquidator and Managing Controller Appointed to The Crown (Liquidator and Managing Controller Appointed) ABN 50 785 365 455
- The Office of The Liquidator and Managing Controller Appointed to The United Nations (Liquidator and Managing Controller Appointed) ABN 29 672 736 281
- The Office of The Liquidator and Managing Controller Appointed to The Commonwealth of Australia CIK; 0000805157 (Liquidator and Managing Controller Appointed) ABN 99 475 901 249
- The Office of The Liquidator and Managing Controller Appointed to The United States of America (Liquidator and Managing Controller Appointed) ABN 69 571 958 226
- The Office of The Crown Attorney General ABN 33 785 287 219

**AND**

**His Majesty King Uluki Waa-Wurrung of Terra Australis**

Direct first born descendant and holder of all rights and titled arising pursuant to the Batman Treaty of 1835 (Annexure 1), and joint beneficiary with the Issuer of internationally binding treaty identification CTS-1 dated 6<sup>th</sup> April 2025 issued and executed by the International Crown Unitary Executive/ International Crown Liquidator/ International Crown Receiver and Manager/ International Crown Managing Controller/ International Crown Attorney General (TAB 1), representing Australian First Nations Peoples,

**Regarding:** Previously advised lawful regime change by notice dated 1<sup>st</sup> June 2019, 4<sup>th</sup> August 2020, 18<sup>th</sup> and 20<sup>th</sup> September 2025, 13<sup>th</sup> and 27<sup>th</sup> October 2025, 28<sup>th</sup> November 2025 as acknowledged by the Crown in the person of its agent the Australian Prudential Regulatory Authority (“APRA”) in its advice dated 9<sup>th</sup> December 2025, 10<sup>th</sup> and 12<sup>th</sup> December 2025 and otherwise as valid notices under the law expressed in this notice and the materials otherwise contained in The Public Interest Disclosure drive located in the cloud at the address the control of all unlawful insolvent fraudulently trading corporate entities masquerading as legitimate governance across the World.

**To:** All United Nations and Commonwealth countries; all states, territories, provinces, regions, districts, dependencies, Crown dependencies, overseas territories, external territories, associated states, outlying islands, and administrative divisions of Commonwealth nations,

**BE IT KNOWN:**

**WHEREAS** Andrew Morton Garrett ABN 70 432 067 434 as Trustee for the Andrew Garrett Irrevocable Living Trust ABN: 51 725 142 618 has held registered personal property security interest 40591602 dated 11<sup>th</sup> April 1957 (Annexure 2) and became beneficial owner of the terms and conditions of the Charter of the Commonwealth of Nations on the eleventh day of March, two thousand and thirteen as personal property security interests granted by Her Imperial Britannic Majesty, Queen Elizabeth II by exercise of the Imperial Royal Prerogative,

**AND WHEREAS** on the first day of June, two thousand and nineteen Andrew Morton Garrett crystallised his personal property security interests over the Hereditary Office of the Head of the Windsor Family Office (The British Throne) represented by Her Imperial Britannic Majesty, Queen Elizabeth II, issuing a Notice of Crystallisation of Registered Personal Property Security Interests/ Notice of Seizure of Collateral/ Notice of Retention of Collateral/ Notice of Appointment as Managing Controller served on the third day of June two thousand and nineteen with service acknowledged on the sixth day of June, two thousand and nineteen **granting him full control and authority over Commonwealth governance;**

**AND WHEREAS** on the fourteenth day of August, two thousand and twenty Andrew Morton Garrett served Notice of Appointment as Liquidator on the Federal Court of Australia in SAD 138/2020; SAD 138/2020; SAD 140/2020; SAD 141/2020; and SAD 142/2020 as acknowledged by Justice Charlesworth on the third day of October two thousand and twenty;

**AND WHEREAS** on the sixth day of April, two thousand and twenty-five, His Majesty King Uluki Waa-Wurrung signed a new lawful and internationally binding treaty with The Crown (Liquidator and Managing Controller Appointed), appointing H.M. King Uluki the rightful Monarch of the Commonwealth of Australia;

**AND WHEREAS** the corporate entity operating as "The Crown" as advised by Legal Profession Public Officials has been fraudulently trading facilitating money laundering and Terrorism Financing since at least the 1<sup>st</sup> of January 1901, within the meaning of the *Insolvency Act 1986* (UK), and has continued to impersonate legitimate monarchy through use of an illegitimate great seal and coat of arms, constituting high treason under Commonwealth law;

**THEREFORE:**

All Commonwealth trading under fraudulent corporate authority is to cease immediately

All future communications, negotiations, and governance decisions regarding the Commonwealth are to be conducted exclusively through the lawful Monarch of the Commonwealth, **His Majesty King Uluki Waa-Wurrung**, and his appointed representative, **International Crown Attorney General Andrew Morton Garrett**,

Any public official, corporate entity, or governing body continuing to operate under the dissolved fraudulent structure will be held personally liable for treason, fraud, and breach of public trust.

Issued and executed under lawful authority,

Andrew Morton Garrett



The Commonwealth



International Crown Unitary Executive/ International Crown Liquidator/ International Crown Receiver and Manager/ International Crown Managing Controller/ International Crown Attorney General

His Majesty King Uluki Waa Wurrung  
Monarch of the Commonwealth of Australia  
Terra Australis First Nations Peoples

*Uluki Waa Wurrung.*





ANNEXURE 2



Births, Deaths and Marriages Registration Act 1996



SOUTH AUSTRALIA

BIRTH CERTIFICATE

<b>CHILD</b> Surname Given Names  Sex Date of Birth Place of Birth	GARRETT ANDREW MORTON  MALE 11/04/1957 CALVARY HOSPITAL, NORTH ADELAIDE
<b>MOTHER</b> Surname Maiden Surname Given Names Age Place of Birth Occupation Address	GARRETT MATTERS BARBARA FRANCES 35 YEARS WOODSIDE, SOUTH AUSTRALIA NOT RECORDED 11 CUMMINS STREET NOVAR GARDENS
<b>FATHER</b> Surname Given Names Age Place of Birth Occupation	GARRETT BRIAN JOHN COWAN 29 YEARS GLASGOW, SCOTLAND COMPANY DIRECTOR
<b>MARRIAGE OF PARENTS</b> Year of Marriage	1954
<b>PREVIOUS CHILDREN OF PARENTS</b> Given Names (sex, date of birth)	1 LIVING
<b>INFORMANT</b> Name Relationship to Child	B.F. GARRETT MOTHER
<b>REGISTRATION</b> Registration Number Date	40591602 17/04/1957



BIRTHS, DEATHS AND MARRIAGES REGISTRATION OFFICE, ADELAIDE

I hereby certify that the above particulars are contained in an entry in the Register kept in this Office in the State of South Australia

Given under my hand and seal this 20th day of February, 2006

REGISTRAR



704233



The Commonwealth



CTS N°1

Crown Treaty Series

International Treaty

Between The Crown ÷ Liquidator And Managing Controller Appointed ÷ And H.M. Uluki

<https://icattorneygeneral.org>

//ISIN: AU0000023194/CFI: DCZSFB//FISN: OENOVVA/BEX 20221001.GTD.FM.BR//  
//LEI: 984500957DB10F0F4B11/CIK: 0001872362//ATRC1001H-44193900-1669//O-19446//

Amg857; Hcmp-1 855-2022; Certificate Of International Treaty And License Delegating Discretionary Public Powers To Represent:

- The Office Of The Liquidator And Managing Controller Appointed To The British Empire ABN 99 627 978 317 And
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- The Office Of The Crown Attorney General ABN 33 785 287 219



C.A.G 001

The Commonwealth



H.M. 001

The Commonwealth

Global Head Office: Level 29, Olaya Towers Tower B, Intersection Of Olaya Street & Mohammed Bin Abdul-Aziz Street, Riyadh 11523,  
Kingdom Of Saudi Arabia And Buckingham Palace, London Sw1a 1aa,  
United Kingdom Of Great Britain And Northern Ireland

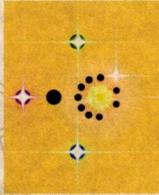
Email: [amg@betterworldfuturefund.org](mailto:amg@betterworldfuturefund.org)

Be It So Enacted This International Treaty Is An Agreement Between Sovereigns To Enforce And Defend The Principles Of Federation  
Enacted By Her Imperial Britannic Majesty, Queen Elizabeth II, On The 11th Of March 2013 Referred To As The Charter Of The  
Commonwealth And Enforceable Against All Citizens Of The Territory Of The World And Offer And Acceptance Of Grant Of License To  
Trade With The Intellectual Property And Discretionary Public Powers Conferred Under The Ten Enactments The Property Of Andrew  
Morton Garrett, Heirs, Successors And Assigns.



Signature: *Andrew Morton Garrett*  
Name / Title: Andrew Morton Garrett  
Liquidator / Managing Controller / Economy  
Crown Attorney General / Chairman / Managing Director

Signature: *Uluki*  
Name / Title: H.M. Uluki  
Australian First Nations Peoples





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CHARTER  
*of the*  
COMMONWEALTH

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Handwritten signature of Queen Elizabeth II, with the emblem of the Commonwealth of Australia visible in the background.

Signed by Her Majesty Queen Elizabeth II, Head of the Commonwealth,  
Commonwealth Day 2013

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## WE THE PEOPLE OF THE COMMONWEALTH:

Recognising that in an era of changing economic circumstances and uncertainty, new trade and economic patterns, unprecedented threats to peace and security, and a surge in popular demands for democracy, human rights and broadened economic opportunities, the potential of and need for the Commonwealth – as a compelling force for good and as an effective network for co-operation and for promoting development – has never been greater,

Recalling that the Commonwealth is a voluntary association of independent and equal sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of our peoples and in the promotion of international understanding and world peace, and influencing international society to the benefit of all through the pursuit of common principles and values,

Affirming that the special strength of the Commonwealth lies in the combination of our diversity and our shared inheritance in language, culture and the rule of law; and bound together by shared history and tradition; by respect for all states and peoples; by shared values and principles and by concern for the vulnerable,

Affirming that the Commonwealth way is to seek consensus through consultation and the sharing of experience, especially through practical co-operation, and further affirming that the Commonwealth is uniquely placed to serve as a model and as a catalyst for new forms of friendship and co-operation in the spirit of the Charter of the United Nations,

Affirming the role of the Commonwealth as a recognised intergovernmental champion of small states, advocating for their special needs; providing policy advice on political, economic and social development issues; and delivering technical assistance,

Welcoming the valuable contribution of the network of the many intergovernmental, parliamentary, professional and civil society bodies which support the Commonwealth and which subscribe and adhere to its values and principles,

Affirming the validity of and our commitment to the values and principles of the Commonwealth as defined and strengthened over the years including: the Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Langkawi Declaration on the Environment, the Millbrook Action Programme, the Latimer House Principles, the Aberdeen Agenda, the Trinidad and Tobago Affirmation of Commonwealth Values and Principles, the Munyonyo Statement on Respect and Understanding, the Lake Victoria Commonwealth Climate Change Action Plan, the Perth Declaration on Food Security Principles, and the Commonwealth Declaration on Investing in Young People,

Affirming our core Commonwealth principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy, and responsiveness,

Reaffirming the core values and principles of the Commonwealth as declared by this Charter:

I.

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## DEMOCRACY

We recognise the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live. Governments, political parties and civil society are responsible for upholding and promoting democratic culture and practices and are accountable to the public in this regard. Parliaments and representative local governments and other forms of local governance are essential elements in the exercise of democratic governance.

We support the role of the Commonwealth Ministerial Action Group to address promptly and effectively all instances of serious or persistent violations of Commonwealth values without any fear or favour.

II.

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## HUMAN RIGHTS

We are committed to the Universal Declaration of Human Rights and other relevant human rights covenants and international instruments. We are committed to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just and stable societies. We note that these rights are universal, indivisible, interdependent and interrelated and cannot be implemented selectively.

We are implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds.

III.

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## INTERNATIONAL PEACE AND SECURITY

We firmly believe that international peace and security, sustainable economic growth and development and the rule of law are essential to the progress and prosperity of all. We are committed to an effective multilateral system based on inclusiveness, equity, justice and international law as the best foundation for achieving consensus and progress on major global challenges including piracy and terrorism.

We support international efforts for peace and disarmament at the United Nations and other multilateral institutions. We will contribute to the promotion of international consensus on major global political, economic

and social issues. We will be guided by our commitment to the security, development and prosperity of every member state.

We reiterate our absolute condemnation of all acts of terrorism in whatever form or wherever they occur or by whomsoever perpetrated, with the consequent tragic loss of human life and severe damage to political, economic and social stability. We reaffirm our commitment to work together as a diverse community of nations, individually, and collectively under the auspices and authority of the United Nations, to take concerted and resolute action to eradicate terrorism.

IV.

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## TOLERANCE, RESPECT AND UNDERSTANDING

We emphasise the need to promote tolerance, respect, understanding, moderation and religious freedom which are essential to the development of free and democratic societies, and recall that respect for the dignity of all human beings is critical to promoting peace and prosperity.

We accept that diversity and understanding the richness of our multiple identities are fundamental to the Commonwealth's principles and approach.

V.

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## FREEDOM OF EXPRESSION

We are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes.

VI.

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## SEPARATION OF POWERS

We recognise the importance of maintaining the integrity of the roles of the Legislature, Executive and Judiciary. These are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and adherence to good governance.

## VII.

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# RULE OF LAW

We believe in the rule of law as an essential protection for the people of the Commonwealth and as an assurance of limited and accountable government. In particular we support an independent, impartial, honest and competent judiciary and recognise that an independent, effective and competent legal system is integral to upholding the rule of law, engendering public confidence and dispensing justice.

## VIII.

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# GOOD GOVERNANCE

We reiterate our commitment to promote good governance through the rule of law, to ensure transparency and accountability and to root out, both at national and international levels, systemic and systematic corruption.

## IX.

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# SUSTAINABLE DEVELOPMENT

We recognise that sustainable development can help to eradicate poverty by pursuing inclusive growth whilst preserving and conserving natural ecosystems and promoting social equity.

We stress the importance of sustainable economic and social transformation to eliminate poverty and meet the basic needs of the vast majority of the people of the world and reiterate that economic and social progress enhances the sustainability of democracy.

We are committed to removing wide disparities and unequal living standards as guided by internationally agreed development goals. We are also committed to building economic resilience and promoting social equity, and we reiterate the value in technical assistance, capacity building and practical cooperation in promoting development.

We are committed to an effective, equitable, rules-based multilateral trading system, the freest possible flow of multilateral trade on terms fair and equitable to all, while taking into account the special requirements of small states and developing countries.

We also recognise the importance of information and communication technologies as powerful instruments of development; delivering savings, efficiencies and growth in our economies, as well as promoting education, learning and the sharing of culture. We are committed to strengthening its use while enhancing its security, for the purpose of advancing our societies.

X.

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## PROTECTING THE ENVIRONMENT

We recognise the importance of the protection and conservation of our natural ecosystems and affirm that sustainable management of the natural environment is the key to sustained human development. We recognise the importance of multilateral cooperation, sustained commitment and collective action, in particular by addressing the adaptation and mitigation challenges of climate change and facilitating the development, diffusion and deployment of affordable environmentally friendly technologies and renewable energy, and the prevention of illicit dumping of toxic and hazardous waste as well as the prevention and mitigation of erosion and desertification.

XI.

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## ACCESS TO HEALTH, EDUCATION, FOOD AND SHELTER

We recognise the necessity of access to affordable health care, education, clean drinking water, sanitation and housing for all citizens and emphasise the importance of promoting health and well-being in combating communicable and non-communicable diseases.

We recognise the right of everyone to have access to safe, sufficient and nutritious food, consistent with the progressive realisation of the right to adequate food in the context of national food security.

XII.

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## GENDER EQUALITY

We recognise that gender equality and women's empowerment are essential components of human development and basic human rights. The advancement of women's rights and the education of girls are critical preconditions for effective and sustainable development.

XIII.

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## IMPORTANCE OF YOUNG PEOPLE IN THE COMMONWEALTH

We recognise the positive and active role and contributions of young people in promoting development, peace, democracy and in protecting and promoting other Commonwealth values, such as tolerance and understanding, including respect for other cultures. The future success of the Commonwealth rests with the continued commitment and contributions of young people in promoting and sustaining the Commonwealth and its values and principles, and we commit to investing in and promoting their development, particularly through the creation of opportunities for youth employment and entrepreneurship.

XIV.

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## RECOGNITION OF THE NEEDS OF SMALL STATES

We are committed to assisting small and developing states in the Commonwealth, including the particular needs of small island developing states, in tackling their particular economic, energy, climate change and security challenges, and in building their resilience for the future.

XV.

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## RECOGNITION OF THE NEEDS OF VULNERABLE STATES

We are committed to collaborating to find ways to provide immediate help to the poorest and most vulnerable including least developed countries, and to develop responses to protect the people most at risk.

XVI.

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## THE ROLE OF CIVIL SOCIETY

We recognise the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals.

We are committed to ensuring that the Commonwealth is an effective association, responsive to members' needs, and capable of addressing the significant global challenges of the future.

We aspire to a Commonwealth that is a strong and respected voice in the world, speaking out on major issues; that strengthens and enlarges its networks; that has a global relevance and profile; and that is devoted to improving the lives of all peoples of the Commonwealth.

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A handwritten signature in black ink, appearing to be 'Kamalesh Sharma', written in a cursive style.

Signed by His Excellency Kamalesh Sharma, Commonwealth Secretary-General,  
14 December 2012, on which day Commonwealth Heads of Government  
adopted the Charter of the Commonwealth

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# The Unfortunate Background to Derek Bromley's Criminal Appeal

Dr Bob Moles\*

*Bob Moles is one of Australia's leading experts in wrongful convictions. By all accounts, during his professional life, Dr Manock appears to have misrepresented his qualifications and engaged in malpractice. As Bob demonstrates here, the time has come for Australian governments, who drew on Manock's self-proclaimed expertise in ways that resulted in convictions, including that of Mr Derek Bromley, to re-examine this body of work and the extent to which it has resulted in many possible miscarriages of justice. This article refers to the deaths of an Aboriginal boy and of an un-named Aboriginal man. Advice was sought from Elders in the interests of justice and of the families and communities involved.*

In recent times there have been over 4,000 criminal convictions which have been overturned, in countries comparable to ours, after having exhausted all usual avenues of appeal. In the United States, Michigan University's *National Registry of Exonerations* lists the current figure of exonerations since 1989 at 3,565.<sup>1</sup> The Canadian registry of wrongful convictions has 89 cases.<sup>2</sup> The United Kingdom has had 586 successful appeals as a result of the work of the Criminal Cases Review Commission (CCRC) since 1997.<sup>3</sup> By comparison Australia and New Zealand have had very few.

Among all these cases, there has not been one that compares with the situation which has occurred in South Australia.<sup>4</sup> It should be emphasised that a most significant issue found to be the cause of wrongful convictions in these cases is the failure in the duty of disclosure.<sup>5</sup> "Duty" is clearly important as referring to something which is mandatory, not discretionary. It requires, in the context of the prosecution case, that, if the Crown knows of any matter which goes to the credibility or competence of a prosecution witness or may open up a new line of inquiry which might benefit the defence it *must* be disclosed. It does not matter whether the prosecutor had personal knowledge of the information or not.<sup>6</sup> It includes anything which is relevant and in the possession of or available to the Crown, which includes the police, forensic services and any government departments. The prosecutor must make inquiries to see if disclosable material exists. The obligation is continuing, post-trial and even post-appeal.

\* An Adjunct Associate Professor at Flinders University. He is known for his expertise and publications in legal theory and wrongful convictions. He founded Networked Knowledge [NetK] and played a key role in the release of Henry Keogh. Dr Moles has worked on cases like Derek Bromley and Frits Van Beelen. His work has significantly contributed to reforming post-conviction pathways, including the right to a second appeal in South Australia and other states.

<sup>1</sup> University of Michigan, *National Registry of Exonerations* <<https://www.law.umich.edu/special/exoneration/Pages/about.aspx>>.

<sup>2</sup> The Canadian Registry of Wrongful Convictions, *Wrongful Convictions Data Visualized* <<https://www.wrongfulconvictions.ca/data/>>.

<sup>3</sup> Criminal Cases Review Commission (UK), *Facts and Figures* <<https://ccrc.gov.uk/facts-figures/>>.

<sup>4</sup> The law and media reports, submissions and other materials relating to each case referred to in this article are available at the respective NetK Homepage listed at <<http://netk.net.au/reports.asp>>. This includes the full text of the chapter discussing each case in Robert N Moles, *A State of Injustice* (Lothian Books, 2004). Issues relating to Dr Manock and not specific to an individual case are available at the NetK Dr Manock Homepage <<http://netk.net.au/ManockHomepage.asp>>.

<sup>5</sup> J Ungood-Thomas, "Courts Are Close to Collapse Over Police Disclosure Failures", *The Guardian*, 31 October 2021. The Crown Prosecution Service had reported that 1,648 cases had collapsed over disclosure failures in the previous year.

<sup>6</sup> B Sangha and R Moles, *Miscarriages of Justice: Criminal Appeals and the Rule of Law in Australia* (LexisNexis Butterworths, 2015) 243-248.

(2025) 47 Crim LJ 577

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## Moles

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The recent cases emphasise, “[t]he duty of disclosure is owed to the court and not to the defendant” – “it is a duty owed to the court and not a duty, enforceable at law at the instance of the accused”.<sup>7</sup> In a 2014 judicial inquiry into the conviction of David Eastman in 1995, Acting Justice Martin concluded that Eastman had been denied procedural fairness due to failures in disclosure by the prosecution of all relevant material.<sup>8</sup> He said those failures related to issues which had been raised with the prosecution about the qualifications and competence of the Crown’s forensic witness in the case. They had been recorded on file by the prosecution but not disclosed. He said that file notes about other experts raising concerns in conversations should have been handed over as well as more formal statements and reports. He noted that they were the standards which applied in 1995. No doubt they were also applicable at the time of Mr Bromley’s trial in 1984.

Earlier in his career Mr Martin had been the senior prosecutor at the trial of Derek Bromley who was convicted of the murder of Stephen Docoza in 1984.<sup>9</sup> It was claimed that Bromley had assaulted and then drowned Docoza in the River Torrens in Adelaide. The body was recovered five days later, in an advanced state of putrefaction. The forensic evidence as to cause, timing and circumstances of the incident was central to the prosecution’s case. It was given by Dr Colin Manock who had been the chief forensic pathologist in South Australia since 1968. So, were there any deficiencies in the duty of disclosure by Mr Martin at the Bromley trial in 1984?

### A CHRONOLOGY OF MANOCK’S QUESTIONABLE CAREER

Prior to his appointment in Adelaide, Dr Manock had no formal training in forensic pathology. Yet, from the early 1970s, he presented as a Fellow of the College of Pathology of Australasia. This prestigious qualification normally requires five years of study and two rounds of demanding examinations. However, Dr Weedon, on behalf of the College, said Manock was just given the certificate in 1971 “because of the seniority of the position he held”.<sup>10</sup> All of the formal study and examination requirements were waived. This arrangement has never been disclosed in any subsequent proceedings in which Dr Manock gave evidence.

In the mid 1970’s, Manock took civil action against the forensic science centre (then called the Institute of Medical and Veterinary Science) and “the State of South Australia” about the terms of his employment. Dr Bonnin, then head of the forensic science centre, gave sworn evidence in the Supreme Court that Manock was “unable to do certifying the cause of death because of his lack in Histopathology”.<sup>11</sup> He was appointed “in spite of his youth and inexperience and lack of a specialist qualification”.<sup>12</sup> That evidence was clearly more important than the undisclosed file notes referred to by Justice Martin in the Eastman case. Yet Bonnin’s views were never disclosed in any of the subsequent 400 criminal convictions which Manock helped to secure, a significant number of which were based upon his certifications of the cause of death. Importantly, they were not disclosed by Mr Martin at Mr Bromley’s trial.

There was, in addition, other evidence which ought to have been disclosed. For example, Frits Van Beelen had been convicted of murder in the early 1970s. The timing of death was crucial and based upon Manock’s visual inspection of stomach contents of the young girl who had been killed. Manock said he could give a precise time of death, based upon her rate of digestion, about which he was “virtually

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<sup>7</sup> *R v Keogh (No 2)* (2015) 255 A Crim R 546, [62] (Blue J); [2015] SASC 180. Blue J further adds in footnote 78 of the decision that “the defendant is the beneficiary of the duty”.

<sup>8</sup> Sangha and Moles, n 6, 273–276. See also B Martin, *Inquiry into the Conviction of David Harold Eastman for the Murder of Colin Stanley Winchester*, Report of the Board of Inquiry, 2 <[https://www.courts.act.gov.au/\\_data/assets/pdf\\_file/0010/977680/eastman\\_inquiry\\_-\\_board\\_of\\_inquiry\\_redacted\\_full\\_report\\_29\\_may\\_2014.pdf](https://www.courts.act.gov.au/_data/assets/pdf_file/0010/977680/eastman_inquiry_-_board_of_inquiry_redacted_full_report_29_may_2014.pdf)>.

<sup>9</sup> He was appointed “Senior Crown Prosecutor” in 1982.

<sup>10</sup> ABC 4 Corners, *Expert Witness* (22 October 2001). Television and radio programs on these and related issues are available at <<http://netk.net.au/VideosHome.asp>>.

<sup>11</sup> See Dr Byron Collins, ABC 4 Corners “*Expert Witness*” (22 October 2001) where he explains that histopathology is an essential part of any complete autopsy.

<sup>12</sup> Dr Bonnin transcript of evidence at <<http://netk.net.au/Manock/IMVS.pdf>>.

certain". Following the conviction, Professor Horowitz and Dr Pounder published an article in a scientific journal to say that the time of death Dr Manock had given had no scientific basis to it.

Shortly after, under cross-examination in another case, Dr Manock was questioned on Professor Pounder's statement about the *Van Beelen v The Queen* case. "I did see that comment, yes" he replied. He then responded:

Counsel: And would you agree that estimates of time of death on the basis of stomach contents are very unreliable.

Dr Manock: I do agree with that.<sup>13</sup>

The High Court, some 40 years later, affirmed that Manock's time of death calculation in this case had no scientific basis to it.<sup>14</sup>

In 1979, David Szach was convicted of the murder of a prominent criminal lawyer in Adelaide. The body had been found in the freezer at his home office. At the trial, the prosecutor (Mr Martin) told the jury that Dr Manock's precise time of death calculation put the accused at the scene at the time the death occurred. However, five weeks before the Szach trial, Dr Manock's deputy wrote to the coroner to say that any calculation of a time of death using any of the existing formulas would be "reckless". Dr Manock not only used the formula; he then changed the answer he arrived at by 40% because of the position of the body. In 1994, the leading UK expert on timing death from post-mortem temperatures issued a report stating that Manock had used figures "plucked from the air". Another expert (Dr Byron Collins) said Manock's calculation would not have been used by any practising pathologist at the time.

In 1978, in the remote outback town of Mintabie, Dr Manock was called to the scene where an Aboriginal man had been shot and killed in the street.<sup>15</sup> Instead of using nearby premises which had been cleared for the purpose, he decided to do the "autopsy" in the street. He had two empty oil drums set in front of him with a sheet of corrugated iron on top. The body was stripped and placed before him. Then, in front of the local traders and people who happened to be in the area, he opened up the chest, removed the internal organs and threw them into a bucket at his side. Then, scooping up bodily fluids from within the cavity he offered the ladle to bystanders asking "anyone for soup?" The detective from Adelaide was reported to have said, "Oh, typical Colin".

Some years later, Dr Manock's deputy informed the medical board that a pathologist cannot do anything to a deceased person without the explicit consent of the coroner:

No pathologist is allowed to carry out a post-mortem examination unless the Coroner has specifically nominated that person when and where they can conduct that post-mortem examination.<sup>16</sup>

Clearly, not in the street, and not in front of those known to the deceased.

In 1981, Mrs Emily Perry was convicted of the attempted murder of her husband by poisoning him with arsenic. The High Court, in overturning the conviction in 1982, stated that Manock's evidence was "not fit to be taken into consideration". It said prosecutors should use people who are "substantially" and not just "nominally" experts in their field.<sup>17</sup> Mr Martin was a prosecutor in this case. None of the adverse reports from the leading experts in the Van Beelen and Szach cases, or the adverse judgment of the High Court in the Perry case were disclosed to the court by Mr Martin when putting forward Dr Manock as a credible expert witness at Mr Bromley's trial.

There was another important issue which went to Dr Manock's integrity. Shortly before Mr Bromley's trial Dr Manock had completed the last of three job applications. The first was in March 1968 when Manock applied for the job of chief forensic pathologist. He said that, while he was in Leeds he had completed 1,200 coroner's postmortems of which "30 were murder cases for which I was personally responsible".

<sup>13</sup> Cross-examination at the trial concerning the death of Mrs Cooke arising from an autopsy conducted on 14 April 1984, transcript 829.

<sup>14</sup> *Van Beelen v The Queen* (2017) 262 CLR 565, 591; [2017] HCA 48.

<sup>15</sup> D Rooke, *A Witness of Fact* (Scribe, 2022) Ch 5.

<sup>16</sup> R Moles, *Losing Their Grip: The Case of Henry Keogh* (Elvis Press, 2006) 192.

<sup>17</sup> *Perry v The Queen* (1982) 150 CLR 580, 600.

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The second was in May 1977 when he applied for the post of Director of Forensic Pathology. He stated he had completed 1,400 coroner's autopsies while he had been in Leeds, with 35 homicide cases "in which I was wholly responsible for the medical investigation and the presentation of evidence". This is an increase of 200 autopsies and five murder cases. His claim that he was "wholly responsible" for the evidence in 35 homicide cases is, in light of what we now know, a deeply disturbing claim which should, no doubt, be reported to the UK CCRC. The third application was in August 1983 when Manock applied for the post of Director of the Forensic Science Centre. He stated he had completed 1,845 coroner's autopsies while in Leeds. This was a 50% increase in the numbers of autopsies declared in his original job application. In each of the last two applications he put the chief prosecutor in South Australia as a referee. The last application had "Crown Prosecutor, Brian Martin esq". This was just months after the decision of the High Court in the Perry case and only a few months before the trial of Mr Bromley. As all three applications were to the same employer, even the most basic due diligence would have brought to light these anomalies.

So, prior to Bromley's trial in 1984, there was incontrovertible evidence that Manock was not qualified or competent as a forensic pathologist or as an expert witness. Leading experts and the High Court had found that Manock's evidence in major cases had been false or misleading. Clearly, he had not been honest about his experience and qualifications. None of this was disclosed at Mr Bromley's trial.

In addition, there were other important issues which occurred subsequent to Mr Bromley's trial, and which should have been disclosed to the court as part of the further appeal proceedings which commenced in 2013. Gerald Warren, a 15-year-old Aboriginal boy, had been found dead in the outback in 1985. Manock said the death was the result of an accident. He said Gerald had fallen from a moving vehicle while intoxicated. Later, after the perpetrators had confessed, Manock was told it had been a murder. His initial autopsy report stated that the parallel marks on the injuries to the boy's hand and face were caused by contact with the corduroy of his trousers as he fell from a moving vehicle. He later told the jury that the marks had resulted from blows from a metal pipe with a thread on the end of it. He also accepted that Gerald had not fallen from a vehicle as he originally stated. He told the jury that the major injuries had been caused by a vehicle being driven backwards and forwards over Gerald's body. Manock did not accept his original findings had been erroneous. He told the jury that the physical forces in both scenarios would have been "very similar". He claimed the injuries he found at autopsy were therefore consistent with both explanations. That clearly was false.<sup>18</sup>

In 1990, Terry Akritidis had been found dead at the base of a telecommunications tower on a hill outside Adelaide. Manock had not undertaken the initial autopsy but reported to the coroner on the case. He said the death was a suicide resulting from a fall from the tower, with the body hitting the roof of the adjacent building at 100 kms per hour. The impact of the body had knocked a hole in the roof, which was made of thick, heavily reinforced concrete. The impact had not caused any serious external injuries. Manock explained this was because his clothing (a shirt and a pair of jeans) "had been interposed between his body and the surface that it struck". Clearly, that explanation was also false.<sup>19</sup>

Manock also changed the time of death from that given by the first pathologist who said the evidence of rigor mortis meant it occurred 12 hours before the body was found. Manock said the actual time of death was 12 hours before the body was undressed at the autopsy the following morning. That was two hours *after* his dead body had been found by the police. The initial timing would have placed the young man at a regional police station at that time. Manock's evidence about "the suicide" and the revised timing clearly avoided an inquiry into what might otherwise have been a death in police custody.

Peter Marshall's death in 1992 was equally perplexing. He was found lying on the floor of his ground-floor unit with blood pooling around his head. Manock told those in attendance that Marshall had most likely bumped his head on the bedside table as he fell out of bed. He also suggested it might have been "an aneurism because of the amount of blood around his face". An aneurism may lead to internal bleeding as a result of a burst blood vessel but cannot explain bleeding external to the body. Manock's

<sup>18</sup> Robert Moles, *A State of Injustice* (Lothian Books, 2004) 102–108.

<sup>19</sup> Moles, n 18, 125–138.

explanation resulted in the autopsy being delayed while the scene had been cleaned. He subsequently announced that scans during the autopsy procedure had revealed an opaque object (a bullet) lodged in his brain. A news report stated, “[t]he speckling indicates the weapon was fired in proximity to his face”. Despite Manock stating in his job applications that his special interest was firearms injuries, he appears not to have noticed that Marshall had been shot at close range or that the source of the bleeding was a hole in the skull.

In 1994 Dr Manock’s autopsies of three young babies eventually caused such a public outcry that he finally tendered his resignation. Each baby was under one year of age and they were unrelated to each other. Manock determined they had all died of bronchial pneumonia. The subsequent coronial inquiry found they had suffered severe non-accidental injuries. One had 15 broken ribs. There was also a fractured skull and a very serious fracture of the spine in one case along with other broken bones, extensive bruising and burns. The coroner found that Manock had claimed to have seen things that couldn’t have been seen (such as signs of a chest infection) because they did not exist. He said Manock’s autopsy reports achieved the opposite of their intended purpose. They had closed off criminal inquiries instead of opening them up. He found that Manock had given answers on oath which were “spurious” – not genuine, not true.

At the time he completed his report, the coroner said he was sensitive to the fact that Mr Keogh’s murder trial was about to start. It was alleged that Keogh had drowned his fiancée in the domestic bath at their home. The coroner said he was aware that Manock was to be a principal Crown witness, so he decided, of his own volition, to delay publishing the Findings until after the trial had concluded.<sup>20</sup> We now know that Mr Keogh’s conviction was also based upon Dr Manock’s claims to have seen things (signs of murder) which couldn’t have been seen – because, as the appeal court subsequently found, they too did not exist. If the disclosure of the baby deaths coronial findings had led to a mistrial for Mr Keogh, that would have been preferable to the 20 years of his wrongful imprisonment.<sup>21</sup>

Keogh had been convicted of murder in 1995. He undertook a series of applications for further appeals in an attempt to reopen his case, all without success. These included submissions to the Medical Board which sought an investigation into Dr Manock’s “unprofessional conduct”. In his evidence to the inquiry, Manock contradicted the evidence he had given at Keogh’s trial on a number of important issues, especially concerning the means by which the so-called murder had occurred. It was subsequently found that in the Board’s internal communications, the pathologists had been scathing in their references to Dr Manock’s incompetent and sub-standard work and the fact that he had no formal qualification in his speciality. Dr Coleman had said that “[t]he documentation in the autopsy in question was manifestly inadequate, even by the lowest of standards”. He added, “the standard of the conduct of the autopsy and the quality of the resulting evidence was markedly sub-standard to the point of incompetence”. It is clear that such reports, provided as they were by eminent specialists in the field of pathology, were disclosable by the Crown in subsequent legal proceedings involving Manock.

It should be noted, in Mr Keogh’s appeal against conviction, his highly respected barrister failed to mention the non-disclosure of the Coronial findings.<sup>22</sup> When subsequently asked about this he responded by saying he “could not see how they could assist Keogh”. He added, “he did not have time to consider them in more than an embryonic level and was without the opportunity for an in-depth analysis prior to the appeal being heard”.<sup>23</sup> There were three months between the conviction and the appeal, and the findings comprised around 70 pages.

In May 2013 the Parliament of South Australia passed legislation to create a right to a second or further appeal.<sup>24</sup> Mr Keogh applied for leave to appeal. He was then provided with a forensic report which

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<sup>20</sup> Affidavit of Mr Michael Sykes, Solicitor (7 November 1996) <[http://netk.net.au/Reports/Affidavits\\_Sykes.asp](http://netk.net.au/Reports/Affidavits_Sykes.asp)>.

<sup>21</sup> Sangha and Moles, n 6, 355–403.

<sup>22</sup> They were eventually published two days after Mr Keogh was convicted.

<sup>23</sup> Affidavit of Michael Sykes, n 20.

<sup>24</sup> The materials relating to this issue are available at the Netk Appeals: new statutory right of appeal Homepage, <<http://netk.net.au/AppealsHome.asp>>.

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the Solicitor-General had commissioned nine years earlier. It stated that “there was a lack of essential pathological findings” to support the view that there had been a forcible drowning.<sup>25</sup> It stated it was most likely that she died during a fall after she collapsed or fainted in the bathroom.<sup>26</sup>

The forensic report was not disclosed at the time. The Solicitor-General recommended the case not be referred to the appeal court. It subsequently took Channel 7 several years of litigation and the appointment of three interstate judges to order the release of that report.<sup>27</sup> The former Solicitor-General had, by then, been appointed to be the Chief Justice in South Australia and the South Australian judges were unwilling to rule on the matter. On the hearing of Mr Keogh’s appeal, the court determined that Dr Manock’s evidence had been false and misleading on important issues and other possible causes of death had not been properly explored.

Mr Bromley’s appeal was very similar to that of Mr Keogh. Both cases involved a suspected homicidal drowning and the chief witness for the Crown in respect of cause of death, time of death and the identification of injuries was Dr Manock. However, his lack of qualifications and the many adverse findings had not been mentioned in any criminal proceedings prior to Mr Bromley’s appeal. He was determined to change all that. He spoke and wrote to his senior counsel emphasising the need to put Manock’s lack of qualifications at the forefront of the appeal. That would inevitably mean that the whole of Manock’s evidence would have been inadmissible. His written instructions were:<sup>28</sup>

I, Derek John Bromley, instruct you and the rest of my legal team to include Colin Manock’s qualifications in the evidence we put before the Supreme Court during my appeal on the 20<sup>th</sup> March 2017. I want this done irrespective of whether we get any information from elsewhere.

The barrister agreed to do that. He said he would also provide expert evidence to demonstrate that Dr Manock did not know how properly to diagnose a drowning case, as was done on the Keogh appeal. He retained Professor Thomas who had given evidence to the baby deaths inquiry and to the Keogh appeal along with Dr Byron Collins who has a special interest in drowning cases. The Crown appointed Dr Mathew Lynch who had also given similar evidence in the Keogh appeal. All experts agreed that Dr Manock’s evidence about the timing and causes of bruising and injuries, in relation to a body which had been in the river for five days, had no scientific support. They said his autopsy findings were so incomplete they were insufficient to enable them to exclude a death by natural causes and that all of the injuries could have occurred in the postmortem period.

Just before the appeal concluded Bromley’s senior counsel informed the court that the evidence about Manock’s history of failings and lack of qualifications would be withdrawn. The other criticisms concerning Dr Manock’s autopsy findings in this case would remain. The appeal court then decided that the unchallenged evidence about Manock’s failed autopsy procedures was not sufficiently compelling to pass the test for leave to appeal. They said that the other (non-pathological) evidence in the case was sufficient to satisfy them that the deceased had not died from natural causes and that he had in fact been drowned.<sup>29</sup>

Evidence from the pathology experts in Mr Keogh’s case that were sufficient to require the conviction to be set aside, now appeared insufficient for the grant of leave to appeal for Mr Bromley. Unfortunately, the adequacy of the reasoning by the appeal court on that matter would not be subjected to review by the High Court. The application for special leave to appeal to the High Court was referred by the three judges to the full court of five judges.<sup>30</sup> In doing so, and without reasons being given, the referral specifically excluded the forensic pathology evidence from their consideration.

<sup>25</sup> Sangha and Moles, n 6, 384–388; See also reports on the NetK Henry Keogh Homepage <<http://netk.net.au/KeoghHome.asp>>.

<sup>26</sup> A subsequent report from another specialist retained by the Crown for the appeal stated there was “no evidence” to suggest the death was other than a presumed drowning following a fall with a head injury.

<sup>27</sup> It is now available at the NetK Henry Keogh homepage.

<sup>28</sup> Rooke, n 15, 191.

<sup>29</sup> For a critical evaluation of their judgment, see B Sangha and R Moles, *Research Report with regard to R v Bromley* [2018] SASC 41 (22 March 2019) <<http://netk.net.au/BromleyHome.asp>>.

<sup>30</sup> *Bromley v The King* [2022] HCATrans 158.

On 20 March 2023 we provided a submission to the Premier, the Attorney-General and the Director of Public Prosecutions (DPP) shortly before the High Court hearing of the leave application before the High Court.<sup>31</sup> It stated that the DPP had asserted in his written submissions that the High Court must accept the evidence of Dr Manock as given at Bromley's trial, because it had not been challenged at that time. We pointed to the Crown's duty of disclosure and the need to inform the court of Dr Manock's catastrophic record including the earlier findings of the High Court itself. We pointed to the earlier legal decisions which determined that the securing or maintaining of a conviction based upon evidence known to be false or misleading would amount to "an unspeakable outrage" and "criminal misconduct at the extreme end of official corruption". The submission was tabled in the South Australian parliament on 23 March 2023. The DPP repeated in oral submissions to the High Court the need for the court to rely upon Dr Manock's evidence at trial, without disclosing any aspects of his history of failures or lack of qualifications. The court, by a majority, determined to refuse leave to appeal.<sup>32</sup>

## POSSIBILITIES BEYOND THE HIGH COURT

Many would regard an adverse decision by the High Court to be the final word on the case. However, other possibilities are available. There is provision in the new appeal legislation for a second *or further appeal*. The evidence provided to the Supreme Court by Dr Bonnin about Manock's inability to certify the cause of death and his lack of expert qualifications should be sufficient. The members of the Medical Board subsequently affirmed long after Manock's retirement that he "does not appear to have up-skilled himself in any significant way".<sup>33</sup> As we have seen, through no fault of Mr Bromley, these issues have not been previously raised in any legal proceedings.

There is also the material referred to in this article and in a series of books and television programs. Since February 2023, we could also add the statements broadcast on national television in Australia, by Dr Richard Shepherd, a leading forensic pathologist in the United Kingdom. During his interview, he exclaimed, "Dr Manock isn't a forensic pathologist – he's a charlatan – [t]his man has gone completely rogue".<sup>34</sup> Rather more significant, one might think, than the file notes referred to by Martin AJ in the case of David Eastman.<sup>35</sup>

Another possibility is that which had been raised in Mr Keogh's application to the High Court.<sup>36</sup> It involves an action based on fraud. Mr Game KC had drafted an earlier application to the state Supreme Court raising that issue which had not been activated but remained on the file. The Chief Justice asked whether, if the current application to the High Court was refused, the previous application would be filed to commence those fraud proceedings. Mr Game said he expected it would be. While that did not eventuate, the option is still clearly available.<sup>37</sup>

## KEY FEATURES OF FRAUD PROCEEDINGS

The approach of the courts to issues of fraud is that "fraud unravels everything".<sup>38</sup> In a case where a witness had chosen to commit perjury by concealing evidence about his credibility (as we would say

<sup>31</sup> It is available at <<http://netk.net.au/Manock/Manock49.pdf>>.

<sup>32</sup> *Bromley v The King* (2023) 98 ALJR 84; [2023] HCA 42. For a critical evaluation of their judgment, see Dr Bob Moles, *Research Report: "La-La Land or the Rule of Law - The case of Derek Bromley"* (21 May 2024) <<https://netk.net.au/BromleyHome.asp>>.

<sup>33</sup> Professor Ian Maddocks, 9 November 2004 <<http://netk.net.au/MedicalBoard/Maddocks18nov.asp>>.

<sup>34</sup> Channel Nine, *Under Investigation: The Disgraceful Dr Manock* (22 February 2023). The program and transcript are available at the NetK Dr Manock Homepage.

<sup>35</sup> Sangha and Moles, n 6, 273–276..

<sup>36</sup> *Keogh v The Queen* [2007] HCATrans 693.

<sup>37</sup> See B Sangha, "Extending the Scope of Post-Conviction Reviews" (2007) 30 Aust Bar Rev 90; B Sangha, RN Moles and K Roach, *Forensic Investigations and Miscarriages of Justice: The Rhetoric Meets the Reality* (Irwin Law, 2010) 169–187; Sangha and Moles, n 6, 207–228. See also *NetK Fraud Homepage* <<http://netk.net.au/FraudHome.asp>>.

<sup>38</sup> Sangha and Moles, n 6, 211, citing *SZFDE v Minister for Immigration and Citizenship* (2007) 232 CLR 189, [29]; [2007] HCA 35 referring to Denning LJ in *Lazarus Estates Ltd v Beasley* [1956] 1 QB 702, 712–713.

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Dr Manock had done) the court said that the concealment amounted to a fraudulent misrepresentation of a material fact – that he was honest and truthful. Its purpose was to deprive the court of the opportunity to make a full and public assessment of the value of his evidence. The court added:<sup>39</sup>

It is beyond doubt that it is the duty of the prosecution to give that kind of information to the defence if, of course, they are aware of it. It is simply unbelievable, if the defence here had known about [the witness] in this respect, that they would not have cross-examined him about it, probably with telling effect.

In relation to Dr Manock, many senior lawyers and eminent specialists reported they were unaware of his lack of qualifications:<sup>40</sup>

They claim they only found this out after Manock retired, when other people started looking into his career and background, and dug out the dusty, long-forgotten transcript of the legal action he launched against the IMVS for constructive dismissal. In fact, it seems nearly everyone was kept in the dark about the fact that Manock was deemed unable to perform the job he was appointed to by his former boss, and was essentially gifted the qualification he required to appear as an expert witness in court.

It is said that: “Fraud is conduct which vitiates every transaction known to law. It even vitiates a judgment of the court. It is an insidious disease”.<sup>41</sup>

Importantly, for our purposes, on the question of whether a decision should be rescinded on the basis of fraud, the courts have taken the view that “the fraud issue is tried alone”.<sup>42</sup> The High Court has referred to the need for “separate proceedings” where it is alleged the judgment was obtained through fraud.<sup>43</sup> If Mr Bromley were to establish for example, that Dr Manock was not qualified to give expert evidence in court, then that would be sufficient to have the whole of his evidence excluded. It would then only be necessary to establish that it could have had *some* influence on the outcome of the proceedings for the conviction to be set aside.<sup>44</sup>

In the case of *Moseley v Director of Public Prosecutions (Moseley)*, it was claimed that the criminal appeal court had set aside a conviction on the basis of a fraudulent misrepresentation by a third party who had confessed to committing the crime. The prosecutor brought the fraud application by way of an originating motion in the *civil* jurisdiction of the court on a balance of probabilities. The application was to a single judge of the Supreme Court in the absence of a right of appeal. The prosecutor wanted the appeal court judgment to be set aside, thereby reinstating the original conviction.

The action is commenced by an original bill to set aside a judgment based on fraud and can be filed *without leave*.<sup>45</sup> The Supreme Court of South Australia has the same powers to control its procedures as the High Court of Chancery in England. Its equitable jurisdiction includes the jurisdiction to set aside common law judgments on the grounds of fraud.<sup>46</sup> It extends, as it did in *Moseley*, to setting aside a criminal appeal judgment as well as a determination of a court of first instance.<sup>47</sup> The standard of proof is on the balance of probabilities, and that remains so, even where the matter to be proved involves criminal conduct or fraud.<sup>48</sup> However, as the court pointed out in *Moseley*, the onus discharged by the defendant to secure a retrial was not proof beyond reasonable doubt, nor even proof on the balance of probabilities, but rather proof of a “significant possibility” that a reasonable jury would have acquitted.<sup>49</sup>

<sup>39</sup> Sangha and Moles, n 6, 217, citing *R v Crown Court at Knightsbridge, Ex parte Goonatilelle* [1986] QB 1.

<sup>40</sup> Rooke, n 15, 54–55.

<sup>41</sup> Sangha and Moles, n 6, 211, citing *Farley (Aust) Pty Ltd v JR Alexander & Sons (Queensland) Pty Ltd* (1946) 75 CLR 487.

<sup>42</sup> *Moseley v Director of Public Prosecutions* [2013] HCATrans 237.

<sup>43</sup> *DJL v Central Authority* (2000) 201 CLR 226, [94]; [2000] HCA 17.

<sup>44</sup> *Clone Pty Ltd v Players Pty Ltd (in liq)* (2018) 264 CLR 165, [12]; [2018] HCA 12.

<sup>45</sup> *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [39], citing *Harrison v Schipp* (2002) 54 NSWLR 612, [18]–[19]; [2002] NSWCA 78.

<sup>46</sup> *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [43]–[45].

<sup>47</sup> *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [46]–[49].

<sup>48</sup> *DPP v Moseley* [2013] NTSC 8 (citations omitted).

<sup>49</sup> *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [57].

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The Unfortunate Background to Derek Bromley's Criminal Appeal

The reference to further proceedings based upon fraud includes “perjury, deceit, manifest error and bad faith”. References in the cases include conduct by “the prosecution” or a “witness” for the prosecution who had chosen to commit perjury by concealing evidence about the credibility of a witness. The court said in such cases, the conviction had been a “fraud and a mockery, the result of conspiracy and subornation of perjury”.<sup>50</sup>

*Certiorari*, the quashing or setting aside of a prior judgment of a court, is the appropriate remedy where a conviction has been obtained by collusion or fraud. It is not an appeal. “The prosecution” does not refer to any particular body or group but includes all those responsible for the conduct of the prosecution whether one is responsible for the conduct of the other or not.<sup>51</sup> It clearly includes the police and any expert witnesses called by the crown. It is said the suppression of the truth has the same effect as putting forward a falsity, and may therefore distort the process leading to a conviction.<sup>52</sup>

If the fraud is only discovered after an appeal on other grounds is dismissed, there is no remedy, unless the court at first instance (the trial court) retains the power to set aside a judgment obtained by fraud in the exercise of a power long recognised in common law jurisdictions. This was acknowledged by Kourakis J, now Chief Justice in South Australia.<sup>53</sup> It has been said that:

It would be a monstrous injustice if this court was disabled from bringing down a conviction which was obtained in circumstances where it should have been apparent to the prosecutor that there was no case against the applicant.<sup>54</sup>

The general power of a court to set aside its perfected judgment requires actual fraud. It is not a precondition to the exercise of the power that the party seeking to set aside the judgment exercised reasonable diligence to attempt to discover the fraud during the earlier proceedings.<sup>55</sup>

## CONCLUSION

As mentioned at the outset of this article, the circumstances supporting the claim that Dr Manock was not competent to conduct autopsies or to give expert evidence in court was known by those in authority from the time he was appointed in 1968. It has been established that he has given substantive evidence which was false and misleading in many cases and evidence about his qualifications which was false and misleading in every case.

Earlier attempts to bring these matters before the courts were blocked for some 13 years by the use of the procedural technicalities of the appeal provisions. The most recent attempt by Mr Bromley, utilising new appeal provisions, was ultimately blocked by a refusal to consider the evidence – without further explanation or reason.

A fresh approach, based upon fraud, without any leave requirement, and based solely upon the sworn evidence of Dr Bonnin to the Supreme Court in the mid-1970s, given on behalf of the State of South Australia, should be sufficient and far less costly than any Royal Commission or other judicial inquiry. The same process could also be used for the other 400 convictions which Manock said he helped to secure. A Royal Commission will undoubtedly be necessary to deal with the 10,000 unlawful autopsies he is said to have undertaken.

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<sup>50</sup> *R v Gillyard* [1848] 12 QB 527 cited with approval in *SZFDE v Minister for Immigration and Citizenship* (2007) 232 CLR 189; [2007] HCA 35.

<sup>51</sup> *R v Birmingham Crown Court, ex parte Ricketts* [1991] RTR 105 (DC), 108.

<sup>52</sup> *Al-Mehdawi v Secretary of State for the Home Department* [1990] 1 AC 876, cited in *R v Bolton Justices ex parte Scally* [1991] 1 QB 537, 551.

<sup>53</sup> *Clone Pty Ltd v Players Pty Ltd (in liq)* [2012] SASC 12, [97] (Kourakis J), cited in *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [51].

<sup>54</sup> *R v Bolton Justices ex parte Scally* [1991] 1 QB 537, 553 (Watkins LJ), citing his judgment in *R v Kingston-upon-Thames Justices, ex parte Khanna* [1986] RTR 365, 371.

<sup>55</sup> *Clone Pty Ltd v Players Pty Ltd (in liq)* (2018) 264 CLR 165, 175; [2018] HCA 12.



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**The Governor of South Australia,  
Government House,  
North Terrace,  
Adelaide, SA 5000**

**Thursday, 15 November 2007  
cc; Don Mackintosh  
Crown Solicitor's Office**

**Dear Governor,**

I trust this letter finds you in good health.

I take this opportunity to congratulate you on your recent appointment.

You may or may not be aware of two actions involving myself and my related entities versus the National Australia Bank and its agents in the period of the last few years heard in the Supreme Court of South Australia.

My experience in those matters leaves me with grave concerns in respect of the effective administration of Justice when it comes to unrepresented parties and the conduct of the Supreme Court Judiciary generally.

Those concerns were highlighted on the 17<sup>th</sup> of May 2007 when the Honourable Justice Timothy Anderson adjudged me a vexatious litigant under section 39 of the Supreme Court Act.

That decision is following the appeal process though I note that in spite of a Notice of Appeal having been lodged on the 29<sup>th</sup> May 2007 (within time for bringing of the appeal) in accordance with the court rules, the matter has not been listed.

Of more concern is a decision of the same Judge made on the 19<sup>th</sup> of December 2006 which is also following the appeal process though I note that in spite of a Notice of Appeal having been lodged on the 19<sup>th</sup> January 2007 (within time for bringing of the appeal) in accordance with the court rules, the matter has not been listed.

It is my grave concern that the Government of South Australia has failed to provide proper funding for the administration of Justice in this State. The Supreme Court itself has some grand and wonderful Court rooms but the vast majority of the complex is wholly unsuited to the conduct of the matters concerning the High Court of South Australia. In short it is overloaded, technologically antiquated and a failure of proper government.

By way of Example the Registry is essentially falling down around the ears of the Staff. I must however compliment the staff of the Court registry it is my opinion that they are a extremely competent group of people who do their best for the administration of Justice in this State.

I cannot say the same for the current method of hearing of complaints which is based on the "adversarial system" inherited from Westminster. I have recently noted a pivotal change in the Supreme Court rules with the addition of rule 32 into the Supreme Court rules (2006) this marks in my opinion a quantum leap from the Rules (1987) and a very positive step forward. The rule allows for the court to conduct its own investigations and goes some of the way toward addressing the matters raised by me in a recent Press Release which I copy of your attention and dated 10<sup>th</sup> of September 2007.

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I have noted though that the Judiciary seems unable to apply that rule of its own motion which in the presence of an unrepresented party is simply unsatisfactory. The judiciary seem to be locked in a pattern of conduct which in my mind is unacceptable. That conduct has shown that the Judiciary is either incapable, or in many instances unwilling to consider the material before them; of note please see the extraordinary comments of the Master Lunn of the Supreme Court made as follows on the 13<sup>th</sup> of January 2006

**Material before the Court on the present applications**

- 14 This has already been a long, complicated and bitterly fought action. The Court file comprises over 228 documents contained in 19 folders. Many of those documents are affidavits to which there are many, and often voluminous, exhibits. There is also over 1,000 pages of transcript of numerous hearings. It has been impracticable, and indeed impossible, for me to go through every document on the Court file to resolve the applications which are before me.

The learned Master seems to indicate that he has some choice in determining which evidence he may refer to and in that way construct a judgment that he required as the outcome. Of course this must be nonsense; it is a matter for any party to an action to provide any material they should deem fit for determination of their case.

Following the failure to review the appropriate material the learned master then went on to make the following order that he knew would be appealed and was totally inappropriate in the circumstances;

- 6. Other than in respect of any appeals against these orders no other application by Andrew Garrett in this action is to be filed or listed for hearing unless he first pays into Court \$5,000 cash on account of the taxed costs pursuant to the order in para 5 above***

The Master endeavored to apply cost as a barrier to justice in respect of the parties I represent, it should have been clear from the material before the court that NAB was in breach of the 1<sup>st</sup> and 2<sup>nd</sup> contracts of Finance with the Garrett Entities.

**“If D broke a contract to which P was the only other party, in general only P could enforce it. If D committed a tort against P and no-one else, in general only P could complain. Hence if P were impecunious, the effect of ordering a stay until security for D’s costs was provided was to prevent D’s breach of the law from being remedied at all.**  
“

The Master also observed at paragraph 36 that he did not follow my line of argument in respect of Subrogation, it was wholly inappropriate for the Master to fail in his duties in respect of the administration of Justice to not seek further detail from me with respect of my submissions.

- 36 Andrew Garrett mounted an argument which I do not entirely follow that as the moneys used to discharge the Rothschild Mortgage somehow beneficially belong to AGFT Evajade as the trustee of AFGT was entitled to be subrogated to the Rothschild Mortgage and that right had been assigned by Evajade to Andrew Garrett by the recent deeds of assignment. The short answer to the point is that

On the 25<sup>th</sup> July 2006 the Learned Judge Anderson J acknowledged a lack of familiarity with this action as is shown on the court transcripts;



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HIS HONOUR: Just let's go through it. I'm sorry 35  
 that I'm not familiar with the total background of this 36  
 matter. 37  
 --

On page 33 of those transcripts the learned Judge deliberately led counsel for the Defendant;

HIS HONOUR: Can I ask you a question, and I don't want 18  
 Mr Garrett to be offended by this, but has the bank 19  
 ever suggested at any stage that these proceedings are 20  
 an abuse of process? 21

and again at line 36

HIS HONOUR: Do you say what Mr Garrett is attempting 36  
 to do before me is an abuse of process? 37  
 MR LIVESEY: Yes. In my respectful submission it would 38

On page 34 his Honour again places words in the mouth of Counsel for the defendant exhibiting that in spite of his lack of knowledge of the matter; he has a preformed view that he wishes the Bank to make an application under section 39 of the Supreme Court Act

HIS HONOUR: I presume you say that it's also 5  
 vexatious. 6

The true purpose of the learned Judge is expressed as follows;

HIS HONOUR: The court can't do that off its own 23  
 initiative, can it, I don't think? 24  
 MR LIVESEY: I think it can. The court can - 25  
 HIS HONOUR: Sorry, I was talking of declaring someone 26  
 to be a vexatious litigant. 27  
 MR LIVESEY: I think the court can make that 28  
 declaration. 29  
 HIS HONOUR: I don't think so, but maybe it can. I'm 30  
 not suggesting it's appropriate, but I'm just thinking 31  
 it through as to this has got to end somewhere. 32  
 --

On page 36

HIS HONOUR: Okay, I had forgotten that, yes all 12  
 right. Let's not get sidetracked, but I am concerned 13  
 that Mr Garrett is able to continually get before the 14  
 court and cost people money which they have got no 15  
 chance of recovering. 16



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These comments were made by the learned Judge at a time when there was evidence on the court files as to the swearing of false affidavits by the Defendant, abuse of process and over collection of moneys owed by the Defendant as set out in the submissions of 28<sup>th</sup> and 29<sup>th</sup> September and the affidavit Material in action 590 of 2006

If anything could be the case it was that the Defendant Bank owed money to the Trustees of AGFT, AGFT 2, AGFT3, SPUT, Sunburst Property Trust, HGPT 2 and Phoenix Rising and yet that it was clear that the Judges mind was closed to that particular possibility.

The learned Judge concludes a summary of his bias on page 36

HIS HONOUR:	I have to look at the whole thing and	23
	consider the merits, and I am not pre-judging anything,	24
	but it is a concern to me, I make no bones about that	25
	Mr Garrett, it's a concern.	26
	..	..

For the reasons set out above and others set out in an Amended Notice of Appeal dated 18<sup>th</sup> of October 2007(annexed hereto) it is my clear view that the learned Judge was biased and prejudiced in the conduct of his hearings in respect of action 127 of 2004.

For the reasons sworn in affidavit material filed in action 127 of 2004 I have generally lost faith in the ability of the Supreme Court Judiciary to conduct itself impartially in respect of this action and any other Garrett related matter.

Consequently, I have made application in the Federal Court in respect of the attached affidavit (annexed without exhibits and dated 9<sup>th</sup> of November 2007). This affidavit clearly sets out the Fraud committed by Johnson Winter & Slattery and NAB in respect of the property known as Springwood Park.

It is abundantly clear to me that many Legal Practitioners in South Australia are unrestrained by either their appointment as an officer of the court or by concern of reprimand by the Legal Practitioners Conduct Board. They seem to have no concern in filing affidavit material that they know not to be true, as is highlighted in my letter of complaint to Tony Johnson, Chairman of the firm of Johnson Winter & Slattery dated 14<sup>th</sup> July 2007.(annexed)

The inability of a client to rely upon the conduct of practitioners representing them and the proper exercise of the duty of care is highlighted in my affidavits to commence actions against Lancione Partners and Minter Ellison that I also attach for your reference.

For the reasons set out above and also sworn in the various actions as evidence I have made complaint to the Legal Practitioners Conduct Board as per the annexed letter dated 13<sup>th</sup> July 2007.

For reasons beyond my comprehension the Master Lunn has declined to allow me to commence proceedings for negligence against Minter Ellison and Lancione Partners, he has failed to exercise Rule 32 of the Supreme Court Rules (2000) in an ongoing act of bias and willful blindness.

### **Removal of a Supreme Court Judge**

In the light of the evidence before me and a substantive review of the evidence that was before Justice Anderson I call upon you to exercise your Powers under section 75 of the Constitution of South Australia to remove Justice Anderson from office as a Supreme Court Judge.

4

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A similar exercise of power should be made in respect of the conduct of the Learned Master Lunn.

South Australia

## Constitution Act 1934

### Part 4—The judiciary

#### 74—Tenure of office of Judges

The Commissions of all Judges of the Supreme Court shall be and remain in full force during their good behaviour until their retirement according to law.

#### 75—Removal from office of Judges

It shall be lawful for the Governor to remove any Judge of the Supreme Court upon the address of both Houses of the Parliament.

Both of the learned Judges failed to note the Fraud committed by NAB and its agents.

I have applied to the Federal Court to make a finding of Fraud and advise that should such a finding be made by either that Court or the enquiry I seek you to conduct; All of the decisions made in action 127 of 2004 and the related action 1767 of 2003 will be void against all parties from the beginning as the actions of NAB predated both of those actions.;

**A finding of fraud (or of bad faith in the narrow sense used here) wholly vitiates the decision or ruling which it infected.**

Administrative Law > Judicial review of administrative action: reviewable decisions, conduct and powers and general grounds > Bad faith and fraud > NO TITLE SUPPLIED

**Citation:** TLA [2.4.92]

**Current Updating Author:** Geoff Airo-Farulla, Lachlan Carter, Bronwen Morgan, Hannes Schoombee

**Date of review:** 1/10/1997

**Commentary**

**A finding of fraud (or of bad faith in the narrow sense used here) wholly vitiates the decision or ruling which it infected.**<sup>1</sup> The authorities assume this result without any reference to the language of jurisdictional or non-jurisdictional error (see [2.4.104] – [2.4.130]); fraud is stated to "unravel everything".<sup>2</sup> This is the case where the decision-maker is responsible for the fraud, but where the fraud is practised on a tribunal by the parties, or one of them, the decision may not be void from the beginning.<sup>3</sup>

**Footnotes**

1 Anisminic Ltd v Foreign Compensation Commission [1969] 2 AC 147; [1969] 2 WLR 163; [1969] 1 All ER 208, Lord Reid at 170 (AC).

2 Lazarus Estates Ltd v Beasley [1956] 1 QB 702, Denning LJ at 712.

I remain at your disposal to provide any time or material as you may require.

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**Andrew Morton Garrett** <sup>®</sup>, Personally & in my capacity as Trustee of Trusts

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**ANNEXURE 7**GOVERNMENT HOUSE  
ADELAIDE

Our Reference: 01/03/001

Wednesday 28th November 2007

Mr A Garrett  
Sole Trustee, Chief Executive  
The Andrew Garrett Group  
PO Box 203  
GLEN OSMOND SA 5064

Dear Mr Garrett

I refer to your recent emails to Government House and in particular to your letter to the Governor requesting him to “exercise your Powers under section 75 of the Constitution of South Australia to remove Justice Anderson from office as a Supreme Court Judge” and similarly with respect to Master Lunn, and that he conduct such enquiry as he deems appropriate.

As you have pointed out, the Governor’s power to remove is dependent upon the Governor receiving an address of both Houses of Parliament. Such an address has not been received by the Governor.

As the Governor has no part in the initiation or prosecution of a case against a Judge in Parliament, the Governor is not in position to take any action with respect to your request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Penny Stratmann', with a long horizontal flourish extending to the right.

Ms Penny Stratmann  
OFFICIAL SECRETARY

**ANNEXURE 8**

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**His Excellency Rear Admiral Kevin Scarce AO CSC RANR  
Governor of South Australia,  
Government House,  
North Terrace,  
Adelaide, SA 5000**

**Sunday, 2 December 2007  
cc; Don Mackintosh  
Crown Solicitor's Office**

**Your Excellency,**

I write to you further to my letter dated 15<sup>th</sup> November 2007, my subsequent e-mails and a letter received by me from Ms Penny Stratman of Your Excellency's office dated 28<sup>th</sup> of November 2007.

I admit that I am puzzled by the response contained within that letter, and note that the content of that letter falls well short of what I believe is proper consideration.

For the purposes of my understanding I seek to outline where I believe it is incumbent upon Your Excellency to make proper inquiry in respect of my request to you to exercise Your Excellency's powers under section 75 of the Constitution Act (1934).

From the Government House web site I understand that;

#### **Appointment of the Governor**

Under section 7(2) of the Australia Act, Her Majesty appoints the Governor and terminates the appointment. She exercises this power personally on the advice of the Premier. As a matter of practice, the appointment is usually for a maximum period of five years, although the appointment is formally during Her Majesty's pleasure and not subject to any term.

The appointment is made on commission under the written signature of Her Majesty. After appointment the Governor is required to take the oath of office and the oath of allegiance under the Oaths Act 1936.

I believe the form of the relevant oaths from the Oaths Act is as follows;

#### **8—Form of oath of allegiance**

The oath of allegiance shall be in the following form:

I, \_\_\_\_\_ do swear that I will be faithful and bear true allegiance to His Majesty, King Edward the Eighth, His Heirs and Successors, according to law. SO HELP ME GOD!

#### **9—Form of official oath**

The official oath shall be in the following form:

I, \_\_\_\_\_, do swear that I will well and truly serve His Majesty King Edward the Eighth, His Heirs and Successors, according to law, in the office of \_\_\_\_\_ . SO HELP ME GOD!

Of course I understand that the words "Her Majesty, Queen Elizabeth the Second" will have been substituted for "King Edward the Eighth" as the reigning Monarch as at the date of Your Excellency's oaths of office.

I understand from what I have read, that you are the agent of her Majesty Queen Elizabeth II consequently I believe Your Excellency to be bound under the obligations of Her Majesty as set out in the Coronation Oath which took place on Tuesday, 2 June 1953 as follows ;

1

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**The Coronation Oath (from the Order of Service for the Coronation)**

*The Queen having returned to her Chair, (her Majesty having already on Tuesday, the 4th day of November, 1952, in the presence of the two Houses of Parliament, made and signed the Declaration prescribed by Act of Parliament), the Archbishop standing before her shall administer the Coronation Oath, first asking the Queen,*

Madam, is your Majesty willing to take the Oath?

*And the Queen answering,*

I am willing.

*The Archbishop shall minister these questions; and the Queen, having a book in her hands, shall answer each question severally as follows:*

*Archbishop.* Will you solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, Pakistan, and Ceylon, and of your Possessions and the other Territories to any of them belonging or pertaining, according to their respective laws and customs?

*Queen.* I solemnly promise so to do.

*Archbishop.* Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgments?

*Queen.* I will.

*Archbishop.* Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? Will you maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England? And will you preserve unto the Bishops and Clergy of England, and to the Churches there committed to their charge, all such rights and privileges, as by law do or shall appertain to them or any of them?

*Queen.* All this I promise to do.

*Then the Queen arising out of her Chair, supported as before, the Sword of State being carried before her, shall go to the Altar, and make her solemn Oath in the sight of all the people to observe the premisses: laying her right hand upon the Holy Gospel in the great Bible (which was before carried in the procession and is now brought from the Altar by the Arch-bishop, and tendered to her as she kneels upon the steps), and saying these words:*

The things which I have here before promised, I will perform and keep. So help me God.

*Then the Queen shall kiss the Book and sign the Oath.*

I seek to have you exercise the Power of the Queen in respect of "causing Law and Justice, in Mercy, to be executed" in all of Her Majesties' judgments.

In order for Your Excellency to exercise Her Majesties' judgment as her agent, it is incumbent upon Your Excellency to investigate.

I turn to the solemn promise of Her Majesty to govern the people of Australia "to any of them belonging 2 or pertaining n accordance with their respective Laws and Customs."

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I have reviewed the Australia Act (1985)(SA) as it applies to the exercise of Justice and Law and can see nothing contained therein or in any relevant Supreme Court Act, Judiciary Act or any other statute of this State or Commonwealth that prevents Your Excellency from exercising the power to investigate and the power under section 75.

The conferring of the office of Governor upon Your Excellency the agency that exists in respect of the promise of our sovereign lady in respecting of the causation of Law and Justice obliges Your Excellency to act in a quasi judicial role and involves the interpretation of "Natural Justice".

I repeat; I believe that it is Your Excellency's obligation to inquire and take whatever action as Your Excellency may be advised.

I refer Your Excellency to the Judicial Oath of Office contained within the Oaths Act;

### **11—Form of judicial oath**

The judicial oath shall be in the following form:

I, \_\_\_\_\_, do swear that I will well and truly serve Our Sovereign Lord King Edward the Eighth, His Heirs and Successors, according to law, in the office of \_\_\_\_\_, 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!

It appears to me that the Judicial Officers of this State are directly accountable to Your Excellency as Her Majesties' agent in South Australia. In fact this would appear to be a matter of priority to any obligation to the Executive, from whom it is equal clear the Judiciary must remain distant.

It is my understanding that the nature of Your Excellency's office and that of the other Governor's in Australia as well as the Governor-General has changed since the passage of the various Australia Acts and related statutes in Australia and in the United Kingdom.

However, it is clear that the nature of the obligations of Your Excellency's office in respect of the operation of "Law and Justice" has remained fundamentally unchanged.

In particular I note that the aforementioned Judicial Oath states "*I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or illwill*"

It is misbehavior in respect of this Oath that I ask Your Excellency to investigate with regard to the conduct of both of His Honour Justice Anderson and the Master Lunn. It is clear that in the investigation of the matters surrounding me that the minds of the learned Judges were closed in the execution of their office in action 127 of 2004 in the Supreme Court of South Australia.

I attach a Statement of Claim that I have served on the Federal Court Registry for filing as of Friday November 30<sup>th</sup> 2007.

Relevant authority in respect of disqualification of sitting of Judges is set out as follows;

1. SZEJF v Minister for Immigration & Multicultural & Indigenous Affairs [ 2006] FCA 724
2. The Nominal Defendant v Kostic [2007] NSWCA 14
3. Sutherland Shire Council v Dietz [2004] NSWCA 53
4. HIRST v POLICE [2006] SASC 244

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The Judges to whom I refer did not disqualify themselves.

The Anglo-Australian foundations of judicial appointment trace back to the Act of Settlement 1701 (Imp) and the events which preceded it. Section III of the Act of Settlement provided that the commissions of the judges were no longer to be at the pleasures of the Crown, this section provided that —

"The judges' commissions be made quamdiu se bene gesserint [during good behavior] and their salaries ascertained and established; but upon the address of both houses of parliament it may be lawful to remove them."

When considering the similar provision in Queensland, Isaacs and Rich JJ observed in *McCawley v The King*—

**"At common law a judge held his office at the pleasure of the Crown.** ... The Act of Settlement altered the common law and enacted that judges' commissions should be during good behaviour. The qualification as to removal by the Crown on an address from both houses was added. The object of all this was to protect the judges, not from parliament, but from the arbitrary and uncontrolled discretion of the Crown. The legal result was that the Crown could only interfere with a judge either (1) for misbehavior, **or** (2) if the house of parliament desired it. This obviously did not decrease the control of parliament ..."

Before a judge is removed from office, there will usually be an inquiry into whether there are sufficient grounds for removal. Indeed, such an inquiry may be required by law. If Houses of Parliament must be involved in the removal process they may appoint a parliamentary committee to make such an inquiry. **If the Houses are not required to be involved and the decision whether to remove is to be made by a vice-regal representative, that officer may appoint an ad hoc committee to make enquiries and advise.** In some cases it may even be thought appropriate to appoint a royal commission of inquiry.

I do not require the Houses of Parliament to be involved; to be honest, I have little confidence in politicians and their ability to take their obligations as members seriously; especially those pertaining to the operation of the Law and the Administration of Justice.

New South Wales is the only Australian jurisdiction in which there is a standing statutory body with the power to make inquiries which may ultimately result in the removal of a judge from office. The *Judicial Officers Act 1986* (NSW) brought into being a Judicial Commission which includes a Conduct Division. The chief judges of the courts of New South Wales are ex officio members of the Commission. Under s 15(1) of the Act anyone may complain to the Commission about "a matter that concerns or may concern the ability or behaviour of a judicial officer".

It appears that this state is deficient in this regard; it is surely a curious state of affairs if the judges of a superior court cannot be removed, except by a parliamentary process.

There can be little doubt that, subject to any valid privative clauses, the actions of an extra-parliamentary commission of inquiry which has been established to inquire into and report on the conduct of a judge are subject to judicial review according to general principles of administrative law. A body of this kind is analogous to a royal commission of inquiry or a body such as the Independent Commission Against Corruption created by the New South Wales *Independent Commission Against Corruption Act 1988*. Courts of supervisory jurisdiction have on many occasions been asked to review the actions of such bodies and have not hesitated to do so.

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The preceding paragraph suggests that the position of the Judicial officers to whom I refer is well protected and any decision of Your Excellency is appellable.

I take this opportunity to restate my request of Your Excellency to;

1. Make such inquiry as Your Excellency should & must be desirous of making in the light of my understanding of the nexus between us.
2. Make such enquiry as Your Excellency should & must be desirous of making in accordance with Your Excellency's understanding of Your Excellency's obligations.
3. Exercise Your Excellency's power under section 75 of the Constitution Act(1934) in respect of the aforementioned officers

I take this opportunity to refer Your Excellency to section 58, 78B & 88 of the Judiciary Act (1903) (C'th). I understand that Your Excellency's office pertains to this state only; however the matter raised by me has a "Commonwealth Aspect" and is relevant as a cause of action under the Constitution or it's interpretation..

The Constitution Act (1934) of South Australia is subservient to the Constitution of Australia leading to the application of Chapter 3.

For Your Excellency's edification and benefit I provide some authority in respect of removal of Judicial Officers as attached.

I urge Your Excellency to obtain the proper legal advice in respect of what must also be a constitutional matter.

In closing and with the greatest of respect to Your Excellency, Your Excellency's office and the author, I consider the letter of Ms Penny Stratman poorly researched and ill advised.

It is clear that the address of both house of Parliament may be conducted by Your Excellency upon appropriate investigation of misbehavior.

If Your Excellency considers that I am in some way in error with respect of my research and the contents of this letter, I invite Your Excellency's response at Your Excellency's earliest convenience. Time stands still for no man.

I urge Your Excellency to maintain an open mind and inquire after the relevant facts. I remain at Your Excellency's disposal to provide such time & material as Your Excellency may require.

Again; with the greatest respect, a failure of Your Excellency's office to undertake the actions that I seek, promptly and efficiently (time is of the essence) will leave me with little alternative than to engage Your Excellency in the High Court of Australia as original jurisdiction.

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**Andrew Morton Garrett** ©®,  
**Chief Executive**

Personally & in my capacity as Trustee of Trusts

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**ANNEXURE 9**

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**His Excellency Rear Admiral Kevin Scarce AO CSC RANR  
Governor of South Australia,  
Government House,  
North Terrace,  
Adelaide, SA 5000**

**Monday, 3 December 2007  
cc; Don Mackintosh  
Crown Solicitor's Office**

**Your Excellency,**

I refer Your Excellency to my letters to Your Excellency dated 15<sup>th</sup> November 2007, 2<sup>nd</sup> December 2007, my subsequent e-mails and the letter received by me from Ms Penny Stratman of Your Excellency's office dated 28<sup>th</sup> of November 2007.

In the last paragraph of my letter dated 2<sup>nd</sup> of December 2007 I noted that time is of the essence.

I have further contemplated the implications and undertones of the letter received by me from Ms Stratman.

The letter suggests to me that in the nearly two weeks between by letter dated the 15<sup>th</sup> of November no proper research was carried out by those parties advising Your Excellency and worse the inference is there that My petition of you has been handled in a cavalier and dismissive fashion

In the light of the research and authority that I have directed your Excellency's attention to that was in my possession, I hope you will agree that I have acted in a prudent and well considered fashion; I suspect that Your Excellency's views and perhaps those of the parties advising Your Excellency may be coloured by the media surrounding me and the decision of Anderson J dated the 15<sup>th</sup> of May 2007 made in action 127 of 2004.

I ask you to note that I have lodged with the Supreme Court Registry two Notices of Appeal in respect of the reasons of Anderson J, one in respect of the aforementioned decision and the other in regard to reasons handed down by His Honour on the 6<sup>th</sup> of January 2007 in the same action.

I take this opportunity to assure Your Excellency that my position (as a lay person) is well researched and considered (within the limitations of being an unrepresented party), the issues I have raised in the Notices of Appeal are of significant Public Importance, for Your Excellency's reference I now annex the Notices to which I refer.

It is of note that both Appeals were received within time in accordance with the court rules, neither of those appeals have been listed or rejected delays of nearly 11 months and nearly 7 months respectively cannot be acceptable in the interests of proper administration of Justice.

Further delays by the Supreme Court in listing my appeals that lie as of a right and the investigation of the pertinent facts with regard to my Petition are not acceptable to me.

I am bound to act in accordance with Trust Law and must put aside my personal interests in favor of those for whom I act. I am bound to preserve the corpus of the Trust Funds and cannot allow delays to have the effect of estoppel.

The Parties I represent have been significantly prejudiced to this time and have suffered loss well in excess of \$200 million.

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In light of my concerns with regard to the quality of advice that has apparently been received by Your Excellency and the resultant position expressed within the letter dated the 28<sup>th</sup> of November 2007 I have reason to believe that this Petition is not receiving proper consideration.

With the greatest of respect to Your Excellency and Your Excellency's advisors I believe that proper consideration of my petition to exercise your constitutional Powers (State and Federal) may be delayed and ignored. If this belief is in error I invite Your Excellency's correction by statement.

I respectfully request Your Excellency to provide a response to me by the close of business Wednesday 5<sup>th</sup> Of December, 2007.

I respectfully request that any response should confirm;

1. The nature of the advice received by Your Excellency's office from the Crown Solicitor's Office.
2. Whether Your Excellency proposes to conduct proper enquiry of all of the pertinent facts including the materials within my control, possession & knowledge.
3. A timetable of proposed action by Your Excellency's Office
4. In the alternative; an undertaking to provide me with a properly considered response by an agreed date prior to Christmas.

I have indicated my position to Your Excellency that in the absence of an appropriate well considered response or in the alternative a response as per point 4 above I may proceed without further notice to engage Our Sovereign Lady, Queen Elizabeth the Second and Your Excellency in the High Court of Australia.

Concurrently, a Notice of Constitutional Matter will be served upon the Attorney's General of the States and territories of the Commonwealth of Australia

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**Chief Executive**

Personally & in my capacity as Trustee of Trusts

Cc His Excellency Major General Michael Jeffery AC CVO MC, Governor General of the Commonwealth of Australia

The Honorable Kevin Rudd, MP Prime Minister of Australia

The Honorable Robert McClelland, MP Attorney General of Australia

The Honorable Michael Rann, MP Premier of South Australia

The Honorable Michael Atkinson, MP Attorney General of South Australia

The Honorable Martin Hamilton Smith, MP Leader of the Opposition

The Honorable Chief Justice Doyle, Supreme Court of South Australia

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**THE ANDREW GARRETT GROUP OF ENTITIES**

PO BOX 203, GLEN OSMOND, SOUTH AUSTRALIA, 5064

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Email [agarrett@holy-grail.com.au](mailto:agarrett@holy-grail.com.au)

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**The Honourable Kevin Rudd, MP,  
Prime Minister of Australia,  
Parliament House,  
North Terrace,  
Adelaide, SA 5000  
Wednesday, 5<sup>th</sup> December 2007**

**The Honourable Robert McClelland, MP,  
Attorney General of Australia**

**Dear Prime Minister & Attorney General,**

I take this opportunity to congratulate you both on your recent election victory and elevation to Government. I hope that in your conduct of the administration of your high office, you will be less the consummate politician that your predecessor was. Amongst the many issues before you I seek to draw your attention to my perceived inadequacies of the administration of Law and Justice in this country.

I have had the benefit of first hand experience in respect of the failure of members of the Judiciary to;

1. act in an unbiased fashion
2. read the material properly before them
3. exercise their inherent powers to investigate in the pursuit of Natural Justice
4. act in an inquisitorial fashion after the European system of Justice

My experience reveals;

1. There is no mechanism in place for an unrepresented party to obtain legal assistance in respect of civil actions.
2. Legal Practitioners generally are unchecked in respect of compliance with their duties and obligations as officers of the Court
3. Registered Insolvency Practitioners generally are unchecked in respect of compliance with their duties and obligations as officers of the Court and as agents of the Inspector General.
4. The failure of the Legal Practitioners Conduct Board of South Australia to discipline legal Practitioners admitted to the Bar in South Australia under the Legal Practitioners Act (1981)(SA)
5. The current adversarial system of Justice requires review for the common good.

I refer you to my letters to;

1. His Excellency the Governor of South Australia dated 15<sup>th</sup> November 2007, 2<sup>nd</sup> December 2007, 3<sup>rd</sup> December 2007 and the letter received by me from Ms Penny Stratman of His Excellency's office dated 28<sup>th</sup> of November 2007.
2. His Excellency the Governor General of Australia dated 5<sup>th</sup> December 2007.

Those letters and supporting material are self explanatory, in the absence of a suitable response from the parties I have advised Their Excellency's that I will commence an action in the High Court of Australia under sections 55, 78B and 88 of the Judiciary Act (1903)(C'th).

I invite you both to properly investigate the Garrett related matters and obtain the appropriate advice. Of course it is the role of Government to provide for the proper administration of Law and Justice, generally I have no complaint with respect of the Federal Court system, however the reasons I have indicated in my correspondence it is clear to me that Banks and some members of the legal community consider themselves to be above the law.

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I am sure that you will both be aware that it is commonly observed that no one can beat the Banks which must of course beg the question as to why can they not be beaten?

This is of course based on the fundamental assumption that in an action where they have wronged another party such as is set out in the Statement of Claim annexed hereto.

The observation arises from the fact that a Bank can bleed a party dry of funds and often to the degree of over collecting on the funds that may have been secured and subsequently generating a significant profit, a Bank can throw as much at an action in terms of funding counsel as they wish, the source of funding appears to be bottomless.

The adversarial system allows that an unrepresented and uneducated party faces a well funded and resourced legal team when arguing his case; all too often the Judiciary are not diligent in protecting the rights of that party.

The conduct of the asset management areas of the Major Banks is nothing short of criminal, I will bet London to a brick that you are aware of this fact. It is incumbent upon you to properly investigate this criminal conduct and legislate appropriate controls of the activity of Banks in this area.

It is common knowledge that a penalty is unenforceable at Law, by way of example; if a bank levies a charge of \$40 on a customer overextending on a credit card limit, that charge is a penalty and is unenforceable at Law.

The Banks continue to levy this charge in the face of well established case law and precedent; in this fashion they continue to defraud the public at large of many Hundreds of Millions of Dollars every year; I believe the budget for Westpac in respect of this charge is \$300million per annum. This is clearly a matter that requires your immediate attention.

In the same way Default rates as defined within a Bill Facility are also a penalty and unenforceable at law and yet a Bank claims and charges that rate. Since the mid 1600's default rates as a penalty have been outlawed in the UK, yet today the Banks continue with this practice in the absence of a properly funded advocate and the requisite amendments to Statute.

It seems to me that the politicians both in the State and Federal arenas to this date have acted in wilful blindness of this unjustifiable and illegal conduct.

I urge you to undertake proper investigation and invite your response to me by the Close of Business 14<sup>th</sup> of December 2007 concurrent with the response I have requested of the Governor. In the absence of an appropriate response by that date I reserve my rights to join you to the action outlined in my correspondence annexed hereto.

**Andrew Morton Garrett** ©®,  
**Chief Executive**  
Personally & in my capacity as Trustee of Trusts

Cc Mr. Don Mackintosh Crown Solicitor's Office, South Australia  
The Honorable Michael Rann, MP Premier of South Australia  
The Honorable Michael Atkinson, MP Attorney General of South Australia  
The Honorable Martin Hamilton Smith, MP Leader of the Opposition  
The Honorable Chief Justice Doyle, Supreme Court of South Australia

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**His Excellency Major General Michael Jeffery AC CVO MC  
Governor-General of Australia,  
Government House,  
Dunrossil Drive  
YARRALUMLA ACT 2600  
mailto:governor-general@gg.gov.au**

**Wednesday, 5<sup>th</sup> December 2007  
cc; Don Mackintosh  
Crown Solicitor's Office**

**Your Excellency,**

I refer Your Excellency to my letters to His Excellency The Governor of South Australia, Kevin Scarce dated 15<sup>th</sup> November 2007, 2<sup>nd</sup> December 2007, a letter received by me from Ms Penny Stratman of His Excellency's office dated 28<sup>th</sup> of November 2007 and my subsequent Letter dated 3<sup>rd</sup> of December 2007 .

The correspondence is self explanatory, I have petitioned the Governor of South Australia to cause a proper investigation of two Judges of the South Australian Supreme Court and subsequently to exercise His Powers under section 75 of the Constitution Act (1934)(SA) or any other powers as he deems fit.

The letter received from His Excellency's Office dated 28<sup>th</sup> of November suggests to me that in the nearly two weeks between my letter dated the 15<sup>th</sup> of November & that letter no proper research was carried out by those parties advising His Excellency and worse the inference is there that my petition of him has been handled in a cavalier and dismissive fashion

Of course, I am cognisant that His Excellency is the duly appointed Vice Regal representative for the State of South Australia, however this matter has a Commonwealth Aspect, it goes to the heart of Justice and Law which our Sovereign Lady and her representatives are of course duty and legally bound to uphold.

I also understand the changes wrought by the Australia Acts of the States and the Commonwealth and the resultant impact on the role of the various Vice Regal representatives in this Country, I see nothing in those acts that alters the obligations of our Sovereign Lady and her agents in respect of Her Majesty's obligations to uphold Law and Justice.

Further, I add that those acts purport to make changes to the Constitution, including the right to appeal to the Queen in Council. It is apparent to me that a change to the Constitution requires a referendum and cannot be enacted by parliament, on this basis I assert that a right continues to exist of appeals of the decisions of the High Court to the Privy Council.

In the light of the research and authority that I direct Your Excellency's attention to (annexed hereto), I hope you will agree that I have acted in a prudent and well considered fashion.

I suspect that His Excellency's views and perhaps those of the parties advising His Excellency may have been coloured by the media surrounding me and the decision of Anderson J dated the 15<sup>th</sup> of May 2007 made in action 127 of 2004.

The Honourable Justice Anderson also handed down another decision in the same matter dated the 19<sup>th</sup> of December 2006. It is of note that the Appeals to both of those Judgments were received within time by Registry in accordance with the court rules, neither of those appeals have been listed or rejected; the delays of nearly 11 months and nearly 7 months respectively cannot be acceptable in the interests of proper administration of Justice.

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Further delays by the Supreme Court in listing my appeals that lie as of a right coupled with the failure to investigate the pertinent facts by that court and His Excellency with regard to my Petition are not acceptable to me.

I am bound to act in accordance with Trust Law and must put aside my personal interests in favor of those for whom I act. I am bound to preserve the corpus of the Trust Funds and cannot allow delays to have the effect of estoppel.

The Parties I represent have been significantly prejudiced to this time and have suffered loss well in excess of \$200 million.

In light of my concerns with regard to the quality of advice that has apparently been received by His Excellency and the resultant position expressed within the letter dated the 28<sup>th</sup> of November 2007 I have reason to believe that my Petition is not receiving proper consideration.

I now petition Your Excellency to review this matter and exercise your powers as the agent of Our Sovereign Lady, Queen Elizabeth the Second to consider the pertinent facts, undertake proper investigation and take such action as you may be advised.

I am at your Excellency's disposal to provide further particulars as you may require, I add that the heart of my complaint has now been expressed in a Statement of Claim that I have sought to file in The Federal Court of Australia dated 30<sup>th</sup> of November 2007 (a copy of which is also annexed).

I have brought this complaint to the Federal Arena as a consequence of my lack of confidence in the Government of South Australia to fund and provide for the fundamental rights of all South Australians in respect of the administration of law and Justice.

I invite Your Excellency to obtain proper advice upon the review of the annexed materials; I respectfully request that Your Excellency provide me with a formal response by close of Business Friday 14<sup>th</sup> of December 2007. I also ask you to note that I have provided notice to the Governor of South Australia of my intention to commence action in the High Court of Australia in respect of section 78B and 88 of the Judiciary Act (1903)(C'th). Please consider this letter as formal Notice to Your Excellency that I may seek to join you to that action, in any event the First Defendant will be named as Her Majesty Queen Elizabeth the Second while the Second Defendant will be named as the Governor of South Australia.

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**Andrew Morton Garrett** ©®,  
**Chief Executive**

Personally & in my capacity as Trustee of Trusts

Cc, His Excellency Rear Admiral Kevin Scarce AO CSC RANR, Governor of South Australia  
The Honorable Kevin Rudd, MP Prime Minister of Australia  
The Honorable Robert McClelland, MP Attorney General of Australia  
The Honorable Michael Rann, MP Premier of South Australia  
The Honorable Michael Atkinson, MP Attorney General of South Australia  
The Honorable Martin Hamilton Smith, MP Leader of the Opposition  
The Honorable Chief Justice Doyle, Supreme Court of South Australia

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**Andrew Garrett**

---

**From:** Office of the Official Secretary to the Governor-General  
<gg.donotreply@gg.gov.au>  
**Sent:** Wednesday, 24 August 2016 2:33 PM  
**To:** andrew.garrett@oenoviva.com  
**Subject:** RE: Constitutional Matter relating to Rule of Law and Separation of Powers  
[SEC=UNCLASSIFIED]

Dear Mr Garrett

I refer to your email of 22 August 2016 to the Governor-General. His Excellency has asked me to reply to you on his behalf.

I understand that this matter is of concern to you. I regret to advise, however, that the Governor-General cannot become involved in matters that have been, or may come before a court.

I hope you are able to find a satisfactory resolution to this situation.

Yours sincerely

Paul Singer MVO  
Acting Deputy Official Secretary to the Governor-General

October 11b



OFFICE OF THE OFFICIAL SECRETARY  
TO THE GOVERNOR-GENERAL

6 October 2016

Mr Andrew Garrett  
Winemaker/Consultant  
OenoViva  
Email Address: Andrew.garrett@oenoviva.com

Dear Mr Garrett

**RE: Application under the *Freedom of Information Act 1982 (FOI Act)***

I refer to your application of 5 October 2016 in which you make a request under the Commonwealth *Freedom of Information Act 1982 (FOI Act)* for:

*".....a copy of any document or thing related to me in your possession and Control in the period from the 24th September 2004 until today's date.*

*I also ask under this application for you to provide a copy of any document or thing related to the immunity from prosecution of the Crown."*

This letter sets out my decision on your request for access. I am the authorised decision-maker under section 23 of the FOI Act.

**Material taken into account**

In making my decision, I have had regard to the following:

- the terms of your request;
- the content of the documents to which you sought access;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth's guidelines on FOI.

**Section 6a of the FOI Act**

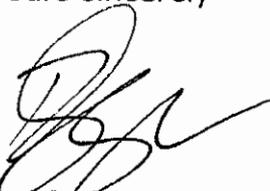
- 1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.

- 2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the Governor-General Act 1974 that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

**Decision**

In relation to your request for information, we have not identified any documents relating to the issue you have raised.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Singer', with a stylized flourish extending to the right.

**Paul Singer MVO**

Acting Deputy Official Secretary to the Governor-General

October 11c



OFFICE OF THE OFFICIAL SECRETARY  
TO THE GOVERNOR-GENERAL

Mr Andrew Garrett  
Winemaker/Consultant  
OenoViva  
Email Address: Andrew.garrett@oenoviva.com

Dear Mr Garrett

**RE: Request for Internal Review under the *Freedom of Information Act 1982***

I refer to your application of 5 October 2016 in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for:

*".....a copy of any document or thing related to me in your possession and Control in the period from the 24th September 2004 until today's date.*

*I also ask under this application for you to provide a copy of any document or thing related to the immunity from prosecution of the Crown."*

And also to your subsequent request of 7 October 2016:

*'Dear Mr Singer*

*Thank you for your decision letter dated today's date I make this request for internal review of that decision, for the purposes of this application for internal review I refer to you as the Decision Maker.*

*I note that your email dated 24th August 2016 (copy attached) is a document of an administrative character within the meaning of the findings of the High Court of Australia in *Kline v Official Secretary of the Governor General*. You have not disclosed that communicate in your decision letter, nor have you disclosed the communications between you and the Governor General where you say the Governor General has asked you to respond to me as set out in your email.*

*Similarly your decision does not refer to my letter dated 5th December 2007 a copy of which is attached or any internal documents evidencing where that letter dated 2007 may have been considered.*

*On the 8th February 2016 I filed and served the attached Interlocutory Application in the Federal Court of Australia proceeding VID 949 of 2014; *Treasury Wine Estates Vintners Limited v Andrew Garrett*. Subsequently His Excellency was named as the 213th Cross Respondent while her majesty Queen Elizabeth II was named as the 212th Cross Respondent in those proceedings (see attached application dated 2nd may 2016) His Excellency and Her Majesty are responsible for operation of the Commonwealth of Australia Constitution Act 1900 (UK), the proper application of the principles of Separation of Powers expressed within that Act the concurrency of operation of the Rule of Law and The Constitution of the United Kingdom (the Common Law).*

*On the 21st February 2016 that attached application was also served in these proceedings while my application dated 7th March was also listed for mention on the 11th March 2016 before the Honourable Justice Middleton.*

*Her Majesty and His Excellency were represented by counsel on the 11th March 2016 in that proceeding.*

*The grounds for the request for internal review are as follows;*

- 1. The decisions are so manifestly unreasonable that no reasonable person would have made the same decision.*
- 2. The decisions are affected by Actual Bias in circumstances where a Notice of Apprehended Bias and Actual Bias was issued prior to the making of the decisions.*
- 3. The decisions are made in circumstances where the decision maker failed to inquire in accordance with the obligations of a Tribunal and determine all of the relevant facts prior to making the decisions.*
- 4. The Decisions were made in circumstances where relevant materials were withheld by others and/or the decision maker.*
- 5. The Decision Maker did not comply with the Hearing rule that requires the His excellency considers not only the adverse materials, but all of the materials relevant to the matter in issue whether or not the decision maker intends to rely upon it.*
- 6. There is an absence of relevant law in the decision and if the relevant law was properly applied then different decisions would have been made.*
- 7. There are inadequate reasons given for the making of the Decisions.*
- 8. The decisions failed to consider the evidence; if the evidence was properly considered then a different decision would have been made.*
- 9. The decisions are not fair.*
- 10. The Decisions are a denial of procedural fairness.*
- 11. The decisions are a jurisdictional error of the Decision Maker that leads to the decision being a nullity and a constructive failure to exercise jurisdiction.*
- 12. The decisions were made on the instruction of others and was not made independently and in the public interest.*
- 13. The Decision Maker fell into error as a question of law and jurisdictional error in causing herself to identify a wrong issue and to ask himself a wrong question in order to ignore relevant materials to make an erroneous decision in order to reach a mistaken conclusion and the tribunal's exercise of power or purported exercise of power is thereby affected.*
- 14. The Decisions are an abuse of process for the improper purpose.*
- 15. The Decision Maker failed to make decisions on the private binding ruling in circumstances where the question of law arises whether the decision maker was obliged to do so as a consequence of its statutory obligations.*
- 16. The Decision Maker did not give fair consideration of the case presented.*
- 17. The question of law and fact arises whether the decision maker was Negligent.*
- 18. There is no Evidence to support the Decisions and when all of the evidence is considered the reverse decisions are supported.*
- 19. The Decisions are tainted by Bad Faith.*
- 20. The Decisions are Illogical or Irrational.*
- 21. The Decisions are uncertain in that it leaves a question of Judgment estimation and was no more than an opinion.*
- 22. There are inadequate reasons given for the making of the Decisions.*
- 23. The Decisions are a denial of Natural Justice.*

24. *The Decision Maker acted dishonestly.*
25. *The Decision Maker acted disproportionately*
26. *The Decisions are tainted by Fraud.*
27. *The Decision Maker did not comply with the obligation to give the Plaintiff a fair hearing.*
28. *The exercise of discretion to grant relief upon review would not be futile and the benefit to be gained by the applicant is substantial.'*

I have undertaken such a review, and this letter sets out my decision on your request.

### **Decision**

I affirm this Office's earlier decision (as conveyed by Mr Singer on 7 October 2016), that we have not identified any documents covering your request that are subject to the operation of the FOI Act.

Accordingly I advise that I reject your request under Section 24 of this Act.

In explanation, documents of the kind you request (and subsequently directed us to in your request for internal review) do not relate to matters of an administrative nature within the meaning prescribed by Section 6A of the FOI Act.

The particular documents to which you refer (letter of 5 December 2007, email correspondence of 22 and 24 August) are either not in the possession of the Agency or are not documents that relate to matters of an administrative nature (correspondence on legal matters is not a matter of an administrative nature).

Should you wish to be provided with copies of your email of 22 August 2016 and the Office's reply of 24 August 2016, we would be happy to provide these to you outside of the provisions of the FOI Act.

Yours sincerely



**Mark Fraser LVO OAM**  
Official Secretary to the Governor-General

25 October 2016