IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No S101 of 2015

BETWEEN:

TRAVERS WILLIAM DUNCAN
Applicant

and

INDEPENDENT COMMISSION AGAINST CORRUPTION
Respondent

SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF VICTORIA (INTERVENING) – ANNOTATED

PART I: CERTIFICATION

1. These submissions are suitable for publication on the Internet.

PART II: BASIS AND NATURE OF INTERVENTION

2. The Attorney-General for Victoria (**Victoria**) intervenes in this proceeding pursuant to s 78A of the *Judiciary Act 1903* (Cth) (**Judiciary Act**) in support of the Respondent.

PART IV: CONSTITUTIONAL AND LEGISLATIVE PROVISIONS

3. Victoria does not seek to add to the statement of applicable provisions set out in the Schedule to the Applicant's submissions (**AS**).

PART V: ARGUMENT

4. Victoria submits, first, that properly construed Pt 13 of Sch 4 [1] amends the *Independent Commission Against Corruption Act 1988* (NSW) (the **ICAC Act**) in an

[1] Inserted by the *Independent Commission Against Corruption Amendment (Validation) Act 2015* (NSW), Sch 1 (the **2015 Validation Act**).

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orthodox way, and validates the *Investigation into the Conduct of Ian MacDonald, Edward Obeid Senior, Moses Obeid and Others* (July 2013)[2] (the **Report**) by altering the substantive content of the law; that is, the meaning of "corrupt conduct".

5. Second, the impartiality of the courts is not undermined by the courts applying a retrospective alteration to the substantive law. The effect of the Applicant's argument is that the State could never pass a retrospective law (cf AS [35]), which is contrary to well-settled authority and practice.

6. Third, if, and to the extent that the issue requires determination, the proceeding below is not in federal jurisdiction merely because an issue arose concerning the construction of s 184(1) of the *Corporations Act 2001* (Cth). That is, the fact that ICAC formed an opinion that the Appellant had committed an offence against a federal law does not mean the proceeding below "arises under" that federal law.

A. The Applicant misconstrues cl 35, Sch 4

7. First, the Applicant misconstrues cl 35 of Sch 4 to the ICAC Act.

8. The Applicant contends that cl 35 does not purport to amend s 8 of the ICAC Act (AS [17], [30]), and that cl 35 does not affect legal rights or obligations (AS [22]). From these premises, the Applicant contends that the "sole operative effect" of cl 35 is to preclude a court from declaring that a finding of ICAC was invalidly made (AS [29]), and that cl 35 "does no more" than that (AS [30]).

9. Each of these two premises is incorrect and therefore the conclusion does not follow.

Clause 35 should be interpreted to be constitutionally valid

10. First, cl 35 should be interpreted in a way that is constitutionally valid, if that interpretation is reasonably open on the language.[3]

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2 **Cause Removed Book, pp 1** ff.

3 *Residual Assco Group v Spalvins* (2000) 202 CLR 629 at [28] (Gleeson CJ, Gaudron, McHugh, Gummow, Hayne and Callinan JJ): "If the choice is between reading a statutory provision in a way that will invalidate it and reading it in a way that will not, a court must always choose the latter course when it is reasonably open" (emphasis added). See also *Gypsy Jokers Inc v Commissioner of Police (WA)* (2008) 234 CLR 532 at [11] (Gummow, Hayne, Heydon and Kiefel JJ).

11. It cannot be doubted that cll 34 and 35 overcome any presumption against retrospectivity.[4] Previous cases establish that there is no constitutional difficulty with a State law retrospectively altering the substantive law, even if that has the practical effect of making a particular result inevitable in pending judicial proceedings. Those cases distinguish between this sort of retrospective laws (which are valid) and laws that interfere with the judicial process itself.[5]

12. Accordingly, there is no constitutional difficulty with amending the ICAC Act with retrospective effect, to give "corrupt conduct" a different, extended meaning from the meaning it had at the time that ICAC prepared the Report and to apply that extended meaning to a particular historical cohort. Clause 35 can easily be interpreted as having this effect (see Respondent's submissions (**RS**) [38]-[39]).

(a) The question of whether cll 34 and 35 alter the substantive law is determined as a matter of substance, not form.[6] Under cl 35(1), anything done before 15 April 2015 "is taken to have been, and always to have been, validly done" if corrupt conduct under the ICAC Act included "relevant conduct". Under cl 34(1), "relevant conduct" is conduct that would be corrupt conduct under the ICAC Act if s 8(2) included certain conduct.

(b) As a matter of substance, cll 34 and 35 extend the meaning of "corrupt conduct", even if they do not amend s 8 as a matter of form. In other words, the meaning of the aspect of "corrupt conduct" in s 8(2) is now determined, in relation to actions of ICAC before 15 April 2015, by applying both s 8(2) and cll 34 and 35 of Pt 13 of Sch 4.

13. This not a question of "reading down" cl 35, but rather the proper interpretation of that provision (contra AS [44]). If, reading the ICAC Act and the 2015 Validation

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4 *Australian Education Union v Fair Work Australia* (2012) 246 CLR 117 (***Australian Education Union***) at [37] (French CJ, Crennan and Kiefel JJ).

5 See eg *Australian Building Construction Employees' and Builders Labourers' Federation v The Commonwealth* (1986) 161 CLR 88 at 96 (the Court); *HA Bachrach Pty Ltd v Queensland* (1998) 195 CLR 547 at [19] (the Court).

6 See, in relation to the "repeal" of an Act, *Kartinyeri v The Commonwealth (Hindmarsh Island Bridge Case)* (1998) 195 CLR 337 at [9] (Brennan CJ and McHugh J): "In determining the constitutional validity of an Act that reduces the ambit of an earlier Act, it is immaterial that the text of the earlier Act remains unchanged. It is the operation and effect in substance of the impugned Act which are relevant to its validity, whether or not the text of the earlier Act is changed." See also [67]-[68] (Gummow and Hayne JJ).

Act as a whole,[7] cll 34 and 35 can be interpreted as expanding ICAC's power to make a report before 15 April 2015 (by expanding the meaning of "corrupt conduct"), that interpretation is valid and should be adopted. That interpretation of cll 34 and 35 does not require the courts to attach a fictional legal status to the Report that it does not hold.[8]

Clause 35 does affect legal rights and interests

14. Second, cl 35 (by extending the definition of "corrupt conduct") does affect legal rights and interests, and produces a recognisable legal consequence. It expands the statutory powers of ICAC and renders the Report as a report into "corrupt conduct" within the meaning of the ICAC Act. The effect of the amendment is that the Report has, and it is always taken to have had, the legal status of a report validly made under the ICAC Act.

15. It is well settled that a report by ICAC can have an adverse effect on the Applicant's reputation, which is a legal "interest" that can be protected by obtaining a declaration.[9] In particular, a person whose reputation is adversely affected by an ICAC report that was made beyond jurisdiction will have a sufficient interest to bring a proceeding for a declaration to that effect.[10] The courts do not grant declaratory relief if the issue is hypothetical, or will have no consequences for the parties[11] (see RS [36]).

16. Accordingly, the capacity of a Court to make a declaration is itself a reflex of the legal consequence of the Report for the Applicant. A law that validates a finding by ICAC does affect legal rights and interests, by providing a lawful basis for the report

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7 An Act which is amended and the amending Act are regarded as one connected and combined statement of the will of Parliament: see eg *Commissioner of Stamps v Telegraph Investment Co Pty Ltd* (1995) 184 CLR 453 at 463 (Brennan CJ, Dawson and Toohey JJ), 479 (McHugh and Gummow JJ).

8 Note the analysis is different if legislation creates parallel rights and liabilities by reference to an invalid judicial order: cf *Re Macks; Ex parte Saint* (2000) 204 CLR 158 at [115] (McHugh J).

9 *Ainsworth v Criminal Justice Commission* (1992) 175 CLR 564 (***Ainsworth***) at 581 (Mason CJ, Dawson, Toohey and Gaudron JJ). The Applicant accepts this in AS [22].

10 See *Greiner v Independent Commission Against Corruption* (1992) 28 NSWLR 125 (***Greiner***) at 147-148 (Gleeson CJ, with Priestley JA agreeing), discussed below. See also *Bateman's Bay Local Aboriginal Land Council v Aboriginal Community Benefit Fund Pty Ltd* (1998) 194 CLR 247 at [50], [52] (Gaudron, Gummow and Kirby JJ), [103] (McHugh J): a person with sufficient interest can obtain an injunction to restrain an excess of jurisdiction by a public body.

11 *Ainsworth* (1992) 175 CLR 564 at 582 (Mason CJ, Dawson, Toohey and Gaudron JJ).

and removing the basis on which the report could be declared invalid (RS [37]). In addition, a law that extends the meaning of "corrupt conduct" will bring within the rubric of the statute consequential exercises of power by ICAC, such as requiring the attendance of witnesses (see cl 34(2); cf AS [16]) which would otherwise fall outside statutory power. Such purported exercises of power that have occurred are, by force of the amendment, validated (RS [16]).

17. The Applicant is not assisted by the reasoning in *Greiner*[12] (relied on in AS [22]).

(a) In *Greiner*, the Court of Appeal (Gleeson CJ, with Priestley JA agreeing) made declarations that a report by ICAC was in excess of jurisdiction and a nullity by reason of an error of law, even though certiorari was not available. However, the retrospective amendments to the ICAC Act, which expressly apply to a report made before 15 April 2015, mean that declarations to that effect could not be made in this case.

(b) Clause 35(3) provides that the validation under cl 35(1) "extends to the validation of things on and from the date they were done or purported to have been done". A court making orders now would apply cl 35 and find that the Report was authorised by the ICAC Act, as amended (contra AS [28]).[13] Clause 35 (and particularly cl 35(3)) is retrospective, by providing that at a past date the law is taken to have been that which it was not.[14]

18. The Applicant wants to have it both ways: he wants to be able to obtain a declaration that the Report is invalid, but also argues that the Report cannot be retrospectively fixed because it does not affect legal rights or interests (RS 36]). Once it is accepted that cll 34 and 35 do affect legal rights and interests, from the perspective of both ICAC and the Applicant, it follows that there is no relevant distinction between those

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12 (1992) 28 NSWLR 125 at 148-149. See RS [35].

13 The "historical fact" referred to in *Australian Education Union* was the purported act of registration: see (2012) 246 CLR 117 at [38] (French CJ, Crennan and Kiefel JJ). Far from suggesting that this historical act could be held invalid (cf AS[30]), their Honours held that the validating legislation could attach different legal consequences to this historical fact from those declared in earlier court decisions under the previous law: at [53].

14 As to which, see *R v Kidman* (1915) 20 CLR 425 at 443 (Isaacs J). See also *Commonwealth v SCI Operations Pty Ltd* (1998) 192 CLR 285 at [57] (McHugh and Gummow JJ): distinguishing between "a statute which provided that as at a past date the law shall be taken to have been that which it was not, and the creation by statute of further particular rights or liabilities with respect to past matters or transactions". Clauses 34 and 35 are in the former category.

provisions and the law upheld in *Nelungaloo Pty Ltd v The Commonwealth*[15] (RS [19]-[21]; contra AS [24]), or the law upheld in *Australian Education Union*[16] (RS [28]-[32]; contra AS [26]).

19. The Applicant's own contention that ICAC's finding contains a "jurisdictional error" (AS [30]) sits uneasily with the Applicant's proposition that the Report does not affect legal rights and interests. The Applicant appears, erroneously, to equate "legal consequences" with whether certiorari is available. However, if there is jurisdictional error, the Applicant could, if given notice, have sought prohibition to prevent ICAC from furnishing the Report to Parliament under s 74(4).[17] It cannot be supposed that prohibition is available for an act that has no legal consequence. Equally, it cannot be supposed that cll 34 and 35 would have legal consequences if enacted before the Report is furnished to Parliament, but not if enacted after the Report is furnished to Parliament. To the contrary, cll 34 and 35 have legal consequences (set out above) in either situation.

20. In short, the Applicant's argument is that the findings of corrupt conduct in the Report were made under a misconception as to the meaning of "corrupt conduct" under the ICAC Act. The Applicant submits that this error is a jurisdictional error, and that he has a sufficient interest to obtain a declaration to that effect. The real issue therefore is this: what is the substantive law that is to be applied by the court (in this case the Court of Appeal and now this Court on removal under s 40 of the Judiciary Act) in determining the meaning of "corrupt conduct" as it applies to the Report? That issue is one of statutory construction, informed by the orthodox principle that Acts are to be construed as being within constitutional power if that construction is reasonably open.

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15 (1948) 75 CLR 495 (***Nelungaloo***). In that case, s 11 of the *Wheat Stabilisation Act (No 2) 1946* (Cth) provided that a certain order made under reg 14 of the *National Security (Wheat Acquisition) Regulations* on 16 November 1939 "shall be deemed to be, and at all times to have been, fully authorised by that regulation, and shall have, and be deemed to have had, full force and effect according to its tenor in respect of wheat harvested in any wheat season up to and including the 1946-1947 season".

16 Section 26A of the *Fair Work (Registered Organisations) Act 2009* (Cth) provided: "If: (a) an association was purportedly registered as an organisation under this Act before the commencement of this section; and (b) the association's purported registration would, but for this section, have been invalid merely because, at any time, the association's rules did not have the effect of terminating the membership of, or precluding from membership, persons who were persons of a particular kind or kinds; that registration is taken, for all purposes, to be valid and to have always been valid." See *Australian Education Union* (2012) 246 CLR 117 at [2].

17 *Ainsworth* (1992) 175 CLR 564 at 581 (Mason CJ, Dawson, Toohey and Gaudron JJ).

21. These last points can be tested by considering the position if the dispute were about a Commonwealth body furnishing a report to the Commonwealth Parliament that contained an error of law. The Applicant's position is that a declaration is available in relation to a report, even though the report has no legal consequences. A challenge to a report by a Commonwealth body would give rise to a case in federal jurisdiction.[18] It is difficult to see how seeking a declaration in relation to a report that had no legal consequences could give rise to a "matter" or involve the quelling of a justiciable controversy. Yet the reasoning in *Ainsworth* (which concerned reports provided by State bodies to State Parliaments) would apply equally to reports provided by Commonwealth bodies to the Commonwealth Parliament.[19]

B. Clause 35 does not impinge on the courts' impartiality, nor amounts to an impermissible direction

22. For the reasons set out above, cl 35 is properly interpreted as a retrospective alteration of the applicable law (by extending the definition of "corrupt conduct") in relation to past acts. Clause 35 therefore does not impinge on the ability of the Supreme Court to grant relief in cases where jurisdictional error exists (contra AS [31]-[34]).[20]

23. Equally, once interpreted as a retrospective alteration to the substantive law, cl 35 does not impinge on the courts' impartiality (contra AS [37]), nor does it amount to an impermissible direction to the courts (contra AS [40]-[41]).

24. The key question with these latter arguments is whether the retrospective amendment of the ICAC Act has undermined the "decisional independence"[21] of the courts. The

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18 There would be a matter arising under the Commonwealth law which conferred power to make the report, or possibly a matter in which prohibition, mandamus or an injunction was being sought against a Commonwealth officer. See Commonwealth Constitution, ss 76(ii) and 75(v); Judiciary Act, s 39B(1A)(c) and (1), respectively.

19 The availability of declaratory relief "is confined by the considerations which mark out the boundaries of judicial power": *Ainsworth* (1992) 175 CLR 564 at 582 (Mason CJ, Dawson, Toohey and Gaudron JJ). The analysis of declaratory relief in *Ainsworth* applies equally to federal judicial power: see eg *Binetter v Deputy Commissioner of Taxation* (2012) 206 FCR 37 at [14] (the Court); *Australian Competition and Consumer Commission v Oceana Commercial Pty Ltd* (2004) 139 FCR 316 at [148] (the Court).

20 See *Palace Gallery Pty Ltd v Liquor and Gambling Commissioner* (2014) 118 SASR 567 (***Palace Gallery***) at [27] (the Court): a State law in similar terms to cl 35 "does not confine or constrain the jurisdiction of this Court to determine the validity of a code of practice."

21 See *South Australia v Totani* (2010) 242 CLR 1 at [62] (French CJ); *Wainohu v New South Wales* (2011) at [61], [64] (French CJ and Kiefel J); *Assistant Commissioner Condon v Pompano Pty Ltd* (2013) 295 ALR 638 at [67] (French CJ).

answer must be no. The impartiality of the courts is not undermined by the courts applying the law, including a retrospective law.[22] The mere retrospective validation by Parliament of an administrative act is not a usurpation of judicial power.[23] The effect of the Applicant's argument is that the State could never pass a retrospective law (cf AS [35]), which is contrary to the well-settled authority referred to earlier.

25. In *Palace Gallery*,[24] the Full Court of the Supreme Court of South Australia rejected arguments very similar to those being put in this case.

(a) In that case, the *Liquor Licensing (Miscellaneous) Amendment Act 2013* (SA) (the **Amending Act**) amended s 11A of the *Liquor Licensing Act 1997* (SA) by adding a provision stating that a code of practice approved under that Act "may include measures that can reasonably be considered appropriate and adapted to the furtherance of the objects of this Act." Clause 3 of Sch 1 of the Amending Act provided (relevantly):[25]

> (1) A code of practice, and any provision of a code of practice, that—
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> (a) was published under section 11A of the *Liquor Licensing Act 1997* (as in force before the commencement of this clause); and
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> (b) is purportedly in force on the commencement of this clause,
>
> will be taken to be valid, and always to have been valid, if the code of practice or provision would have been valid had it been published under section 11A of the *Liquor Licensing Act 1997* as amended by this Act.

That is, cl 3 provided that certain codes made under s 11A before the enactment of the Amending Act were "taken to be valid, and always to have been valid", similar to cl 34 and 35(1) in this case.

(b) The plaintiff in *Palace Gallery* contended that (i) cl 3(1) directed the court as to the exercise of its jurisdiction in that proceeding, and (ii) cl 3(1) usurped or interfered with an essential aspect of the judicial function; namely, the

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22 *Lay v Employers Mutual Ltd* (2005) 66 NSWLR 270 at [50], [60] (Bryson JA, with Santow and McColl JJA agreeing).

23 See *Collingwood v Victoria (No 2)* [1994] 1 VR 652 at 664 (Brooking J, with Southwell and Teague JJ agreeing), explaining *Nelungaloo* (1948) 75 CLR 495.

24 (2014) 118 SASR 567.

25 See *Palace Gallery* (2014) 118 SASR 567 at [20]-[21].

inquiry concerning the law as it is and the application of the law as determined to the facts as determined.[26]

(c) The Full Court rejected those arguments. On the direction argument, the Full Court observed that a law may change the existing law in a way that has an effect on pending proceedings:[27] see [11] above. The Full Court held that cl 3(1) was not an impermissible direction:[28]

> A court determines the rights, duties and obligations of parties subject to a code of practice by determining facts relevant to that exercise and by applying the law as found to those facts. The final step in that process in this case requires the Court to determine the relevant law by reference to the provisions of clause 3(1). That analysis does not reveal an instance of the direction principle. Clause 3 merely identifies the law to be applied by the Court if and when it is called upon to determine whether a particular code is valid. The judicial process employed to determine validity is not affected. The substantive law against which the judicial process is to be conducted is affected.

(d) The Full Court also stated the operation of clause 3(1) did not interfere with the institutional integrity of the Court, and was not inconsistent with the Court's decisional independence.[29]

26. The Applicant is not assisted by the reasoning of French CJ in *International Finance Trust Co Ltd v NSW Crime Commission*[30] (contra AS [39], [42]).

(a) In *International Finance*, French CJ held that the State law in question[31] (which required the Supreme Court to determine certain applications by government officials ex parte) deprived the Supreme Court of the power to determine whether procedural fairness required that notice be given to the other party.[32] The law was invalid because it directed that Court "as to the

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26 See *Palace Gallery* (2014) 118 SASR 567 at [32] (the Court).

27 *Palace Gallery* (2014) 118 SASR 567 at [34] (the Court).

28 *Palace Gallery* (2014) 118 SASR 567 at [45] (the Court), footnote omitted.

29 *Palace Gallery* (2014) 118 SASR 567 at [46] (the Court). The Full Court also distinguished cl 3(1) from State legislation that was found in *Building Construction Employees and Builders' Labourers Federation (NSW) v Minister for Industrial Relations* (1986) 7 NSWLR 372 to amount to a direction to the courts: see *Palace Gallery* at [47].

30 (2009) 240 CLR 319 (***International Finance***).

31 *Criminal Assets Recovery Act 1990* (NSW), s 10.

32 *International Finance* (2009) 240 CLR 319 at [55]-[56].

manner in which it exercises its jurisdiction and in so doing [deprived] the court of an important characteristic of judicial power."[33]

(b) That is, *International Finance* was not a case of a State law purporting to direct the outcome of the exercise of jurisdiction, whether as to the ultimate outcome or a specific issue (contra AS [42]). Rather, that was a case where a State law purported to require the Supreme Court to exercise judicial power in a manner that departed in a fundamental degree from the requirements of judicial process, which undermined the institutional integrity of that Court.[34] In this case, cll 34 and 35 do not affect the manner in which the courts are to exercise jurisdiction at all – rather, those provisions amend the substantive law (with retrospective effect), which is to be applied by the courts in the usual way.

27. Finally, a State law does not interfere with this Court's appellate jurisdiction by altering the applicable law (contra AS [43]). This Court's powers in an appeal are (relevantly) to "give such judgment as ought to have been given in the first instance" (Judiciary Act, s 37). Again, cll 34 and 35 amend the substantive law, and do not interfere with the judicial process.

C. The proceeding below is not in federal jurisdiction

28. The Applicant contends that the proceedings are in federal jurisdiction, because there is a dispute about whether ICAC was correct to make the finding that the Applicant's conduct could constitute a federal offence (see AS [8]-[9]).[35] The Respondent accepts that the proceedings are in federal jurisdiction (RS [64]).

29. Even if the proceedings are in federal jurisdiction, there is no difference to the result (see RS [64]). Once cl 35 is interpreted as a retrospective amendment of the substantive law, there is no difficulty with that law being applied in federal

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33 *International Finance* (2009) 240 CLR 319 at [55], emphasis added.

34 See *International Finance* (2009) 240 CLR 319 at [55]. See also [97] (Gummow and Bell JJ), [159], [161] (Heydon J): there was no effective curial enforcement of the duty of full disclosure on an ex parte application, and the ex parte order could only be set aside on the person, who was the subject of that order, establishing a negative proposition of considerable legal and factual complexity.

35 See Report, pp 149-150. **Cause Removed Book 151-152.**

jurisdiction (contra AS [46]-[48]). The Commonwealth Parliament can validly enact retrospective laws itself.[36]

30. Victoria submits that there must be some doubt whether the proceedings below are in federal jurisdiction merely because the construction and application of the Corporations Act arises. Of course once the validity of the 2015 Validation Act was in issue the appeal in the Court of Appeal was in federal jurisdiction and it was on that basis that an order for removal under s 40 of the Judiciary Act was made.

(a) The proceeding would only be in federal jurisdiction on the additional basis alleged by the Applicant if the relevant right or duty in those proceedings "owe[d] its existence to federal law or depend[ed] on federal law for its enforcement".[37] As noted, the alleged link with federal jurisdiction is that there is a dispute about whether ICAC was correct to make the finding that the Applicant's conduct could constitute a federal offence.

(b) The Applicant's argument is that a matter "arises under" a Commonwealth Act simply because ICAC forms an opinion that a person's conduct "could" constitute an offence against that Commonwealth Act (cf ICAC Act, s 9(1)(a)). ICAC does not have power to make a finding that a person is guilty of, or has committed, a criminal offence (ICAC Act, s 74B(1)(a)). ICAC's power to report depends on State law not federal law,[38] and ICAC's opinion has no consequences under federal law. Indeed, if the Applicant's argument is correct, the proceedings below could have been brought in the Federal Court under s 39B(1A)(c) of the Judiciary Act.

(c) However, as noted, if cll 34 and 35 of Sch 4 of the ICAC Act are interpreted as a retrospective amendment to the substantive law, these provisions can be validly applied, whether or not the proceedings below are in federal

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36 See eg *Kidman* (1915) 20 CLR 425; *Polyukhovich v The Commonwealth (War Crimes Act Case)* (1991) 172 CLR 501; *Australian Education Union* (2012) 246 CLR 117.

37 See eg *LNC Industries Ltd v BMW (Australia) Ltd* (1983) 151 CLR 575 at 581 (Gibbs CJ, Mason, Wilson, Brennan, Deane and Dawson JJ).

38 Although s 9(1)(a) may sometimes operate by reference to a Commonwealth law (if the offence that ICAC considers has been committed is a Commonwealth offence), the jurisdiction of ICAC remains a jurisdiction conferred by State law, not Commonwealth law.

jurisdiction. Therefore it would not be necessary to decide whether the proceedings in the court below are in federal jurisdiction.

PART V: ESTIMATE OF TIME FOR ORAL ARGUMENT

31. Victoria estimates that it will require approximately 20 minutes for the presentation of oral submissions in these appeals.

Dated: 17 July 2015

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