

IN THE HIGH COURT OF AUSTRALIA

MELBOURNE OFFICE OF REGISTRY

BETWEEN:

ROBERT THORPE

Plaintiff

and

TOM ROGERS, ELECTORAL COMMISSIONER

First Defendant

AUSTRALIAN ELECTORAL COMMISSION

Second Defendant

COMMONWEALTH OF AUSTRALIA

Third Defendant

NOTICE OF A CONSTITUTIONAL MATTER

1. The plaintiff gives notice that this proceeding involves a matter arising out of the Constitution or involving its interpretation within the meaning of Section 78B of the Judiciary Act 1903.

Insofar as the Constitution Act can never be amended to abolish either

1. the criminal offence of genocide, or
2. the right and duty of Australia to prevent and punish the crime of genocide, or
3. the right of every person in Australia to live free of genocide

then those three principles of law can be said to be embedded in Australia's Constitution Act 1901—and not just embedded but permanently embedded beyond any alteration or amendment. They are the bedrock which underlie every country's rules for governing—a permanent bedrock, unchanging and unchangeable—including and especially Australia.

Insofar as the the Constitution Alteration (Aboriginal and Torres Strait Islander Voice) Bill 2023 (Cth) ["The Voice Bill"] conflicts with the above-described genocide protections now recognised as permanently embedded in the Constitution Act 1901 it is beyond both the legislative power of Parliament in the Constitution Act 1901.

The proposed Constitutional Alteration conflicts with said genocide protection and is beyond the power of the Australian people voting in a referendum.

The Voice Bill is invalid and the process of alteration is invalid.

2. [State the facts showing the matter is one to which Section 78B of the Judiciary Act 1903 applies.]

The plaintiff has applied for an order that a writ of prohibition be issued by the Court directed to Tom Rogers, Electoral Commissioner, prohibiting him from further proceeding with the referendum on Saturday 14 October for the Constitution Alteration (Aboriginal and Torres Strait Islander Voice)

The plaintiff contends that upon examining the content of the Voice Bill it is immediately apparent that:

1. The Sovereignty of First Peoples is still denied by Australia— one more act/Act causing serious mental harm.
2. Not only that, but instead of acknowledging and recognising rights to First Peoples the Voice Bill commits to forming a mere advisory committee of a few selected First Peoples who the government can call on if and when it pleases. This committee has no legally-enforceable rights to speak to Australia and Australia has no legally-enforceable duty to listen. So, a further denial of First Peoples Sovereignty.
3. Not only that, but Australia will absorb First Peoples in a token and powerless place in the Constitution Act with the weasel word “recognise”. So, once again, a denial of Sovereignty.

The Plaintiff contends that the Voice Bill thus constitutes:

1. the criminal offence of genocide— including attempted genocide, complicity in genocide and conspiracy to commit genocide (see paragraph E above)— by causing serious mental harm to First Peoples with intent to destroy First Peoples (whilst claiming to do the opposite!);
2. a clear breach by Australia of its duty to prevent genocide to First Peoples; and
3. a denial of the right of everyone of the First Peoples in Australia to live free of genocide

The Plaintiff then relies on the propositions set out in Part 1 above arising out of the Constitution and involving its interpretation in order to show the Voice Bill is invalid.

Dated 11 October 2023


..... Robert Thorpe

To:

Tom Rogers

First Defendant

(Legal Rep Australian Government Solicitor

Australian Electoral Commission

Second Defendant

(Legal Rep Australian Government Solicitor)

Commonwealth of Australia

(Legal Rep Australian Government Solicitor)

Address: Australian Government Solicitor

Level 34, 600 Bourke St

Melbourne VIC 3000

Mark Dreyfus

Attorney-General of Australia

Parliament House

Canberra ACT 2600

Jaelyn Symes

Attorney-General of Victoria

Level 26

121 Exhibition Street

Melbourne VIC 3000

Guy Barnett

Attorney-General of Tasmania

Executive Building

15 Murray St

Hobart TAS 7000

Kyam Maher

Attorney-General of South Australia

10 Franklin St, Adelaide SA 5000

Shane Rattenbury

Attorney-General of the Australian Capital Territory

3/5 National Circuit, Barton ACT 2600

Chanston Paech

Attorney-General of the Northern Territory

Parliament House

Darwin NT 0800

Michael Daly

Attorney-General of New South Wales

160 Marsden Street Parramatta, NSW 2150

Yvette D'Ath

Attorney-General of Queensland

State Law Building,

50/50 Ann St, Brisbane City QLD 4000

John Quigley

Attorney-General of Western Australia

11th Floor Dumas House

2 Havelock St

West Perth WA 6005