

Uncle Robbie Thorpe v Judicial Registrar Alicia Ditton
Federal Court of Australia VID589/2024, hearing 8 August 2024

Wednesday 7 August 2024 at 8.30am

Liam Boyle
Senior Executive Lawyer
Australian Government Solicitor, Sydney NSW
liam.boyle@ags.gov.au

copy to vicreg@fedcourt.gov.au

Application to add the Honourable Attorney-General Mark Dreyfus KC MP as Second Respondent

Re: your letter attached to an email at 4.48pm late yesterday afternoon, Tuesday 6 August 2024, from constitutional.litigation@ags.gov.au to vicreg@fedcourt.gov.au

1. Do you accept that the usual practice where judicial review is sought against a court is for the court to take no active part (in the event the successful applicant for judicial review appears in the court) and the relevant Attorney-General is added as the active respondent in your so-called adversary system of justice to represent the relevant State, Territory or Commonwealth of Australia having jurisdiction over the court.?

2. Do you accept that this recent example set out below is an acceptable legal precedent illustrating this well-settled justice procedure?

EXAMPLE

The King Charles Aboriginal Genocide Case

aka *Uncle Robbie Thorpe v Magistrates Court of Victoria and Attorney-General of Victoria*, Supreme Court of Victoria S ECI 2024 01011, judgement reserved 19 July 2024.

On 7 March 2024 I sought judicial review in the Supreme Court of Victoria of a decision in the Melbourne Magistrates Court on 29 December 2023 of Senior Registrar Matt Dalton.

On 19 March 2024 the Director of the Legal Policy Unit of the Magistrates Court of Victoria entered a *Hardiman* appearance (copy of appearance attached below at page 3).

On 22 April 2024 the Honourable Justice Richards ordered the Attorney-General of Victoria to be added as the second defendant (copy of order attached below pages 4-6).

Her Honour said (at lines 15-28 on page 18 of the transcript):

“I do consider that it is necessary to have a representative of the State before the court to ensure that all questions in the proceeding are effectually and completely determined. In my view, that officer is the Attorney-General who should be joined as a defendant to the proceeding. And so I'll make an order under Rule 9.06(b)(i) of the Supreme Court (General Civil Procedure) Rules that the

Attorney-General for Victoria is joined as the second defendant to the proceeding, and the court will attend to notifying the Attorney-General through the Victorian Government Solicitor's Office of that order. And when I do that, I will propose a timetable for the hearing of the proceeding and the exchange of written submissions.”

3. Do you accept that Attorney-General Dreyfus is the current **first law officer** of the Commonwealth of Australia and that the Federal Court of Australia is part of the **portfolio** of the Attorney-General of the Commonwealth of Australia?

See the website pages directory.gov.au/portfolios/attorney-generals (copy attached p 7), anao.gov.au/work-program/portfolio/attorney-generals (copy attached p 8 with link to...) ag.gov.au (copy attached pages 9 and 10).

4. Do you accept that Attorney-General's legal officers Assistant Policy Branch Secretary Susan McKeag, Assistant Secretary Office of International Law Stephanie Ierino and Director Criminal Law Policy Branch Christopher Malone— who appeared as witnesses at last week's Senate hearing on Tuesday 30 July 2024 into the Genocide Amendment— and many other such officers are part of the resources that the Honourable Mark Dreyfus uniquely is able to utilise to ensure that **all** questions in the proceeding are **effectually** and completely determined.

5. Do you accept that my Aboriginal genocide evidence at that said hearing¹ demonstrates that the declarations sought in these proceedings and the clarification of the constitutional questions in my S 78B notice are urgently required to resolve fundamental, rights, duties and liabilities between Our Aboriginal community and your wider “stray-alien” community— as well the international justice community including the International Criminal Court and the UN's International Court of Justice? (See also my corroborating Aboriginal genocide evidence at the current truth-telling royal commission²)

6. Do you accept that Aboriginal genocide is ongoing right now? Do you accept any responsibility to stop and prevent the ongoing Aboriginal genocide? Do you know about **Camp Sovereignty** (copy Senate Hansard 26.2.24 extract attached below at page 12) or the current *Crown References Amendment Bill* (copy attached below at pages 12-13)?

8. You talk of “consent” and say Attorney-General Dreyfus does not “consent” to be added as a respondent. His consent is irrelevant. But isn't it time you genocidal non-Aboriginals at least asked for **Our** consent to occupy Our Lands and usurp Our Law?



CAMP SOVEREIGNTY

¹ <https://www.youtube.com/watch?v=ZMTXG5KwwXs>

² Transcript of Senate hearing not yet available. Copy of my written submission delivered 26.7. 24 and my opening statement delivered 30.7.24 are set out in my affidavit numbered 1 as filed 1.8.24 at pages 12-56.

See also my testimony to Yoorrook Justice Commission <https://yoorrookjusticecommission.org.au/video/land-sky-and-waters-hearings-day-3-27-march-2024/> and transcript of said testimony at pages 50-79 at <https://yoorrookjusticecommission.org.au/wp-content/uploads/2024/04/WUR.HB06.0003.0001.pdf>

19 March 2024

Principal Registrar
Supreme Court of Victoria
2/436 Lonsdale Street
Melbourne VIC 3000

By email: principalregistry@supcourt.vic.gov.au

Dear Principal Registrar,

**Re: Thorpe v Magistrates' Court of Victoria
S ECI 2024 01011**

The Magistrates' Court of Victoria has been served with an Originating Motion, Affidavit and Summons in this matter.

I formally enter an appearance on behalf of the Magistrates' Court of Victoria and advise that the Magistrates' Court of Victoria does not intend to take an active role in the proceedings and will abide by the decision of the Supreme Court in accordance with the principles enunciated in *R v Australian Broadcasting Tribunal, ex parte Hardiman & Others* (1980) 144 CLR 13.

The Magistrates' Court of Victoria does not intend to be represented at the hearing. However, in the event that the Supreme Court is considering an order for costs against the Magistrates' Court of Victoria, the Magistrates' Court of Victoria would seek an opportunity to be heard prior to the making of such an order.

I would be grateful if you could place this letter on the Supreme Court's file. I would also be grateful to receive a copy of any decisions of the Supreme Court relating to this matter.

Yours faithfully,



Kate Clark
Director, Legal Policy
Magistrates' Court of Victoria

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
JUDICIAL REVIEW AND APPEALS LIST

S ECI 2024 01011

BETWEEN:

ROBERT THORPE

Plaintiff

- and -

MAGISTRATE'S COURT OF VICTORIA

Defendant

ORDER



JUDGE: The Honourable Justice Richards
DATE MADE: 22 April 2024
ORIGINATING PROCESS: Originating motion filed 7 March 2024
HOW OBTAINED: At the hearing of the plaintiff's summonses filed 12 March 2024, 25 March 2024, and 26 March 2024
ATTENDANCE: The plaintiff appeared in person with Mr L Lindon
No appearance for the defendant

OTHER MATTERS:

- A. On 20 October 2023, the plaintiff sought to file in the **Magistrates' Court** of Victoria a summons and charge sheet against Charles Phillip Arthur George Windsor for the offence of genocide, contrary to First Peoples Sovereign Laws, the common law of the State of Victoria, and s 268 of the *Criminal Code Act 1995* (Cth) (**proposed proceeding**).
- B. On 29 December 2023, the Magistrates' Court refused to issue the proposed proceeding. The reason given was that 'The proper source of law has not been particularised and the proposed accused may be misled or otherwise prejudiced by this omission' and in the circumstances the issue of the proposed proceeding would be an abuse of process.
- C. On 24 January 2024, the plaintiff sought to appeal that decision to this Court under s 272 of the *Criminal Procedure Act 2009* (Vic). The plaintiff's proposed notice of appeal was rejected as irregular. On or about 26 February 2024, the plaintiff sought to commence this proceeding. His initial filing was rejected because it named a number of defendants who the Prothonotary considered to be unnecessary. The plaintiff refiled his originating motion on 7 March 2024, naming only the Magistrates' Court as a defendant, and it was accepted for filing.

- D. The Court was satisfied that there is an adequate explanation for the delay in commencing the proceeding and there are special circumstances that justify extending the time for commencement of the proceeding to 7 March 2024.
- E. On 19 March 2024, the Magistrates' Court filed a submitting appearance in this proceeding, in accordance with the principles enunciated in *R v Australian Broadcasting Tribunal, ex parte Hardiman* (1980) 144 CLR 13.
- F. The Court was satisfied that the Attorney-General of Victoria should be joined as a defendant to the proceeding, on the basis that, as the first law officer of the State of Victoria, her presence is necessary to ensure that all questions in the proceeding are effectually and completely determined and adjudicated upon.
- G. For the purposes of this proceeding, the Court will assume that:
- i. the sovereignty of the First Peoples in Victoria was never ceded; and
 - ii. all Judges of this Court, past and present, have pledged allegiance to the Crown.
- H. Accordingly, the Court will not grant leave to issue any subpoena or require responses to any notice to produce or notice to admit directed to establishing those matters.
- I. The Court was satisfied that the technical requirements in s 42G of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic) were met and that it was appropriate to conduct the hearing on 22 April 2024 by audio-visual link.



THE COURT ORDERS THAT:

1. Pursuant to r 9.06(b)(i) of the *Supreme Court (General Civil Procedure) Rules 2015*, the Attorney-General of Victoria is joined as second defendant to the proceeding.
2. The plaintiff's summonses filed 12 March 2024, 25 March 2024, and 26 March 2024 are otherwise dismissed.
3. Pursuant to r 56.02(3) of the Rules, the time for commencement of the proceeding is extended to 7 March 2024.
4. The trial of the proceeding is listed for one day on **19 July 2024** before the Honourable Justice Richards.
5. By **4:00pm** on **22 May 2024**, the plaintiff is to file and serve written submissions addressing:
 - (a) the legal basis for the proposed proceeding in the Magistrates' Court;
 - (b) whether the decision of the Magistrates' Court that the proposed proceeding would be an abuse of process was affected by jurisdictional error; and
 - (c) the relief sought in this proceeding.

6. By **4:00pm** on **21 June 2024**, the second defendant is to file and serve written submissions in response.
7. By **4:00pm** on **5 July 2024**, the plaintiff is to file and serve any written submissions in reply.
8. There is no order as to costs.

DATE AUTHENTICATED: 22 April 2024



MR. RICHARDS

THE HONOURABLE JUSTICE RICHARDS

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The Attorney-General's Department (AGD) is the lead entity in the portfolio and is responsible for Australia's law and justice framework and providing legal services to the Commonwealth. Further information is available from the [department's website](#)

The image shows a browser window displaying the homepage of the Attorney-General's Department of the Australian Government. The browser's address bar shows the URL 'ag.gov.au'. The page features a dark blue header with the department's name and a search bar. Below the header is a large blue banner with the department's name and a brief description of its role. The background of the page is a photograph of a modern building with large windows.

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We acknowledge Aboriginal and Torres Strait Islander peoples as custodians of Australia and pay our respects to Elders, past and present. We also acknowledge the ongoing connection to land, sea and communities throughout Australia, and the contributions to the lives of all Australians.

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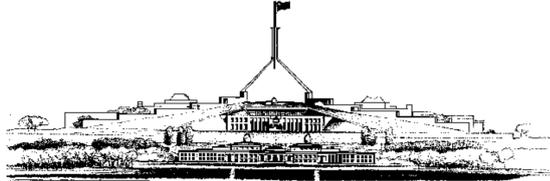


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COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

Wednesday, 28 February 2024

FORTY-SEVENTH PARLIAMENT
FIRST SESSION—FIFTH PERIOD

BY AUTHORITY OF THE SENATE

Camp Sovereignty

Senator THORPE (Victoria) (13:53): Today I want to talk about Camp Sovereignty, whom I spoke to this morning. Camp Sovereignty is a place of resistance on what is known by the colonisers as Kings Domain. It has been a place of cultural significance for our people for millennia. It was re-established on 26 January this year, the day of mourning. The Black GST, focusing on genocide, sovereignty and treaty, originally established Camp Sovereignty in 2006 to highlight these fundamental issues. It was established by my mum, Marjorie Thorpe, Professor Uncle Gary Foley, Uncle Robbie Thorpe, and Targan and Clare Land. It was during the stolen-wealth games. The irony of so-called 'Commonwealth' does not apply to First Peoples. We are still fighting for basic equality. Since 26 January, a sacred fire has been burning on these significant grounds, representing the continuing presence and ongoing resistance of our people. Camp Sovereignty is a place for First Peoples to gather but is welcoming to all. It's a place for community, healing and culture.

Places like this are needed more than ever in this country. Data shows imposed government models like the one we have here continue to fail our people. Community led and driven initiatives have better outcomes, especially when they come from respected elders and experts. I stand in solidarity with my uncle Robbie Thorpe, who has

CHAMBER

Wednesday, 28 February 2024

SENATE

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promised to stay at Camp Sovereignty to continue the resistance until the land is handed back to its traditional custodians, its true sovereigns. The sovereignty here is not real. We are the true sovereigns, and we want our land back.

2022-2024

The Parliament of the
Commonwealth of Australia

THE SENATE

Crown References Amendment Bill 2023

(Second reading amendment to be moved by Senator Thorpe)

Omit all words after “That”, substitute:

- (a) the Senate recognises that:
 - (i) Aboriginal and Torres Strait Islander peoples have never ceded Sovereignty, and therefore are the true Sovereigns over these lands, waters and skies,
 - (ii) the Sovereignty of Aboriginal and Torres Strait Islander peoples means an unceded right held in collective possession by the members of Aboriginal and Torres Strait Islander nations which confers usage, access and custodianship to the lands, waters, minerals and natural resources of what is now known as Australia, and the right of Aboriginal and Torres Strait Islander peoples to exercise an unimpeded and collective self-determinate governance over their political, economic and social affairs,
 - (iii) horrific events and a legacy of genocide, dispossession and enslavement of First Peoples have occurred since colonisation in the name of the British Crown,
 - (iv) in order to move forward from this horrific past, we must establish a National Truth and Justice Commission to tell the true history of what has happened on these lands since British invasion,
 - (v) while First Peoples seek justice for the genocide and crimes against humanity that they have been, and continue to be, subjected to, reparatory justice must involve holding to account the British Crown for the atrocity crimes committed in its name, and
 - (vi) the government of so-called Australia must commit to Treaty negotiations with all Sovereign First Nations as a matter of urgency; and

-
- (b) further consideration of the bill be deferred until the first sitting day after the Government tables a letter in the Senate from the King or the Governor-General, on behalf of the King, outlining the King's commitments to immediately:
- (i) start a process for administering reparations for the oppression of First Peoples, including the plundering of resources, denigration of culture and to redistribute the wealth that underpins the Crown back to the peoples from whom it was stolen,
 - (ii) repatriate all remains of collective First Peoples that reside in UK museums and institutions and that represent their family histories, genealogies, cultural history and spiritual ancestry,
 - (iii) return all cultural treasures and artefacts stolen from First Peoples throughout the hundreds of years of genocide, enslavement, discrimination, massacre and racial discrimination by the authorities empowered by the protection of the British Crown,
 - (iv) acknowledge and adopt, on behalf of the Royal Family, the renunciation of the 'Doctrine of Discovery' made by Pope Francis in April 2023 and to start the process of consultation and reparations for the First Peoples who suffered the consequences of genocide in fulfilment of that doctrine in the name of God, and
 - (v) start the conversation on slavery's enduring impact.

13/05/2024 5:37 PM

2

See Progress of Bill here:

[https://parlinfo.aph.gov.au/parlInfo/search/display/
display.w3p;query%3DId%3A%22legislation%2Fbillhome%2Fr7096%22;rec=0](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22legislation%2Fbillhome%2Fr7096%22;rec=0)