

Form 19A – Notice of a constitutional matter



Rule 19.02(3)

Case: S ECI 2024 01011

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NOTICE OF A CONSTITUTIONAL MATTER

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

No S ECI 2024 01011

B E T W E E N

UNCLE ROBBIE THORPE

Plaintiff

-and-

MAGISTRATES' COURT OF VICTORIA

First Defendant

ATTORNEY-GENERAL OF VICTORIA

Second Defendant

Date of Document: 10 July 2024

Filed on behalf of the Plaintiff

Prepared by:

Uncle Robbie Thorpe

CAMP SOVEREIGNTY

“Kings Domain”

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Ref: Windsor Genocide Prosecution

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1. The plaintiff gives notice that the proposed proceeding involves a matter arising under the Constitution or involving its interpretation within the meaning of section 78B of the *Judiciary Act* (C'th) 1903.

2. [*State specifically the nature of the matter*]

(i) It is inherent and implicit in the Constitution that any law that allows Aboriginal genocide is invalid.

Test: Would any statute that legalises Aboriginal genocide be held to be invalid? Obviously, yes.

Application: Any provision in the Criminal Code that prohibits Aboriginal Peoples from prosecuting Aboriginal genocide offences is invalid. Hence the particular provision that prohibits everyone except a non-Aboriginal politician from prosecuting Aboriginal genocide is invalid.

(ii) Any purported domestic Australian implementation of genocide offences in the Genocide Convention and the Rome Statute of the International Criminal Court under the powers set out in the Constitution will be invalid and beyond those Constitutional powers unless and until any Aboriginal person can prosecute any non-Aboriginal person for Aboriginal genocide offences.

Test: Would any statute that specifically legalises Aboriginal genocide by any non-Aboriginal person be held to be invalid? Obviously, yes.

Application: There is no statute that specifically legalises Aboriginal genocide by heads of state, ministers of state, judicial officers, or any high-ranking officials. The so-called presumption at common law that an individual named Charles Philip Arthur George Windsor is immune from prosecution for Aboriginal genocide is inconsistent with a fundamental statute, the Constitution Act 1903.

Further, any law that purports to implement the Genocide Convention or the Rome Statute of the International Criminal Court but at the same time (a) excludes individual personal liability for Aboriginal genocide for heads of state, heads of government, ministers of state, judicial officers or any high-ranking officials and/or (b) limits the cohort of persons who can prosecute Aboriginal genocide offences to a certain non-Aboriginal person or non-Aboriginal persons within the population is in itself proof of the intent to destroy Aboriginal Peoples and constitutes an offence of Aboriginal genocide including complicity in Aboriginal genocide— see placita (vii), (viii) & (ix) below under the heading **No immunity for legislators.**

RELATED CONSTITUTIONAL MATTERS

No immunity for judicial officers.

(iii) Any judicial officer that holds that the common law doctrine that domestic implementation of the Genocide Convention Act is required in order for the Genocide Convention to form part of the law of Australia under the Constitution commits an act of Aboriginal genocide and has no immunity from prosecution.

Particulars:

1. Complicity in causing serious mental harm to Aboriginal Peoples with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.
2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

(iv) Any judicial officer that holds that section 268.121 of the Criminal Code is valid under the Constitution commits an act of Aboriginal genocide and has no immunity from prosecution.

Particulars:

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2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

(v) Any judicial officer that holds that Charles Philip Arthur George Windsor is immune from individual criminal responsibility for Aboriginal genocide under the Constitution commits an act of Aboriginal genocide and has no immunity from prosecution.

Particulars:

1. Complicity in causing serious mental harm to Aboriginal Peoples with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.
2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

(vi) Any judicial officer that holds that no court can inquire into how Victoria and Australia have jurisdiction over Aboriginal Peoples under the Constitution commits an act of Aboriginal genocide and has no immunity from prosecution.

Particulars:

1. Complicity in causing serious mental harm to Aboriginal Peoples with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.
2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

No immunity for legislators.

(vii) Any legislators that failed to fully and forthwith implement the Genocide Convention have committed an act of Aboriginal genocide and have no immunity from prosecution.

Particulars:

1. Complicity in causing serious mental harm to Aboriginal Peoples with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.
2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

(viii) Any legislators that failed to fully and forthwith implement the Rome Statute of the International Criminal Court (Schedule 1, *International Court Act 2002*) have committed an act of Aboriginal genocide and have no immunity from prosecution.

Particulars:

1. Complicity in causing serious mental harm to Aboriginal Peoples with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.
2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

(ix) Any legislators that enacted section 268.121 of the Criminal Code have committed an act of genocide and have no immunity from prosecution.

Particulars:

1. Complicity in causing serious mental harm to Aboriginal Peoples with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.
2. Complicity in deliberately imposing conditions of life likely to destroy Aboriginal Peoples in whole or in part with intent to destroy Aboriginal Peoples— where (a) the denial of Aboriginal Sovereignty and/or (b) the failure to negotiate Aboriginal Peoples' consent (treaty) is proof of the intent to destroy Aboriginal Peoples.

3. [*State the facts showing the matter is one to which section 78B of the Judiciary Act 1903 applies*].

1. There is no internationally-supervised agreement between First Peoples and the invisible entity “State of Victoria” and/or the invisible entity “Commonwealth of Australia” whereby We First Peoples gave free, informed prior consent without coercion or manipulation to the occupation of Our Lands and usurpation of Our Law by those entities or their officers.

2. The State of Victoria and the Commonwealth of Australia and their officers have conducted a premeditated calculated undeclared war of invasion against We First Peoples, Our Lands and Our Laws and the said war involved atrocities by them and their officers against First Peoples and acts by them all against We First Peoples contrary to Our Law and contrary to international law including genocide, crimes of aggression and crimes against humanity.

3. The only basis for the jurisdiction claimed by the State of Victoria and the Commonwealth of Australia is the said genocidal military invasion.

4. (a) First Peoples’ sovereignty was never ceded.

(b) On 27 April 2023 the State of Victoria through its Kings Counsel formally acknowledged to the Yoorrook Justice Commissioners that Our sovereignty has never been ceded.

(c) By proclamation dated 27 April 2023 Aunty Alma Thorpe described this as the surrender of Charles Windsor and called for the enactment of the Sovereign Recognition Act, the Genocide Convention Act and the Declaration of the Rights of Indigenous People.

(c) On Thursday 18 April 2024 the Minister for Treaty and First Peoples of the State of Victoria, Natalie Hutchins, acknowledged to the Yoorrook Justice Commissioners that Our sovereignty has never been ceded.

(d) Many other identical acknowledgments had been made to Yoorrook Justice Commissioners (e.g Victorian Police Minister Anthony Carbines and Victorian Corrections Minister Enter Erdogan both on 31 March 2023) and elsewhere.

(e) On Monday 29 April 2024 the Premier of the State of Victoria, Jacinta Allan, clearly and specifically acknowledged that Our Sovereignty was never ceded— transcript at <https://yoorrookjusticecommission.org.au/wp-content/uploads/2024/05/WUR.HB06.0012.0001.pdf> at page 9 line 1.

(f) At page 59 line 39 of the said transcript Premier Allan replied to Counsel Assisting Yoorrook:

Mr MCAVOY SC: Premier, there are two questions, I will read each of them to you and give you an opportunity to answer. The first question is do you accept that you cannot get title to land or sovereignty through acts of genocide and invasion?

THE HON. JACINTA ALLAN: Commissioners, I don't believe I am in a position to be able to answer that question at this stage.

[Page 60 line 1]

Mr MCAVOY SC: Thank you, Premier. The second question is given that you accept that sovereignty has never been ceded, does that not mean without a Treaty currently all land in Victoria belongs to Aboriginal people and the only law that governs any resident in Victoria is Aboriginal law? In other words, your law is no longer in force and you need a Treaty to legitimise your occupation?

THE HON. JACINTA ALLAN: Again, pardon me, again, Commissioners, that is challenging to answer. I would just perhaps draw attention to earlier evidence that I provided to the Commission around the State's authority being derived and reaffirmed through our parliamentary - our parliamentary democracy and through the people of Victoria.

5. (a) On 20 October 2023 Uncle Robbie Thorpe emailed to

i. Jacinta Allen, the State of Victoria duly elected and appointed leader (“the Premier”) and a duly elected member of the defendant’s Parliament, and;

ii. Margaret Gardener, the defendant’s duly appointed Governor and also Charles Windsor’s appointed Governor.

(b) In that email the second plaintiff called for Premier Allen and Governor Gardner to declare an end to hostilities against Us.

(c) As of 10 July 2024 no such declaration has been made by Allen or Gardner. Nor by Windsor.

6. The said crimes against First Peoples oblige the State of Victoria and the Commonwealth of Australia forthwith to take all necessary steps to obtain an advisory opinion from the International Court of Justice as to whether Our Law governs all people within the purported boundaries asserted by the defendant and as to whether Our Lands belong to Us under Our Law. As of 10 July 2024 no such steps have been taken.

7. The said crimes against First Peoples oblige the State of Victoria and the Commonwealth of Australia to take all necessary measures to secure an investigation by the Office of the Prosecutor of the International Criminal Court into genocide by the defendant and officers of the defendant against We First Peoples. As of 10 July 2024 no such steps have been taken.

8. (a) We always remember First Peoples who died on local soil fighting for Our Lands and Our Laws.

(b) We remember the children, men and women of First Peoples who died of poisoned food and bio-warfare and massacres and other atrocities in devastating numbers.

(c) We remember First Peoples still subject to acts of genocide by officers of the defendant including deaths in custody, early avoidable deaths, suicide and self-killing caused by serious mental harm and conditions of life calculated to destroy Us, removal of Our children, and forced removal from Our Lands.

9. By statement on the internet dated 4 September 2023 Anne Ferguson, Chief Justice of the Supreme Court of Victoria and Chair of Courts Council, declared in an overarching practice direction on behalf of the Victorian Courts at <https://www.supremecourt.vic.gov.au/news/statement-from-the-chief-justice-yoorrook-for-justice-report>

It is our obligation as judicial officers and court administrators to take this opportunity to listen and learn as we absorb those powerful accounts and the findings and recommendations of the Commission.

From this truth telling must come a far deeper understanding of First Peoples' experience of the justice system. From this will come better outcomes in the future.

We will absorb the Commission's interim report and look at what is within our power to change. But we also take this opportunity to acknowledge the ongoing and intergenerational trauma inflicted upon First Peoples because of colonisation and dispossession.

We acknowledge that harm has occurred for First Peoples in our courts. They have not been experienced as trusted institutions offering justice.

10. At the bottom of every page of the Court's website this routine statement appears next to Our Land Rights flag

The Court acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of the land and acknowledges and pays respect to their Elders, past and present.

11. At the bottom of some Court officer's emails this routine statement appears.

The Supreme Court of Victoria acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples and Traditional Owners and Custodians of the land and waterways upon which our lives depend. We acknowledge and pay our respects to ancestors of this country, Elders, knowledge holders and leaders – past and present. We extend that respect to all Aboriginal and Torres Strait Islander peoples.

12. Is the Supreme Court of Victoria still the White Supremacist court of its history? Read on.

13. On 20 October 2023 Uncle Robbie Thorpe and Aunty Alma Thorpe signed the charge sheet accusing Charles Windsor of crimes under Our Law constituting what you call genocide and ecocide. The charge sheet also accused Charles Windsor of crimes under the Genocide Convention which as at 20 October 2023 forms part of what you call your common law. And the charge sheet accused Charles Windsor of crimes under Division 268 of your Criminal Code. Details of the charges and the applicable law were attached to the charge sheet.

14. On 29 December 2023 the Senior Registrar of the Magistrates Court of Victoria refused to file and issue the charge sheet. Uncle Robbie Thorpe attempted to appeal this refusal in the Supreme Court of Victoria but the appeal was rejected by the Court's Prothonotary ("chief clerk"). Uncle Robbie Thorpe then sought judicial review of the Senior Registrar's refusal and the Prothonotary filed and sealed ("stamped") the proceedings. The Court seal is the coat of arms of the "royal family" in England and features the made-up unicorn and the non-native lion. The Chair of Yoorrook Justice Commission commented that this is like "fairyland" (at the end of Uncle Robbie Thorpe's testimony to the Commission about this case and attempts to stop and prevent Aboriginal genocide.¹

15. On 21 June 2024 the Attorney-General of the State of Victoria, Hon. Jaclyn Symes, filed sealed written submissions in this Charles Windsor case which concluded (at paragraph 65 on pages 1819):

"There would be no utility in remitting the matter to the Magistrates' Court for reconsideration of whether to issue the summons and accept the charge-sheet for filing, for the following reasons.

(1) *First*, for the reasons outlined above, the Court would have no jurisdiction to hear any resultant criminal proceeding. Even if a broader interpretation of "offence known to law" is accepted (so that any jurisdictional limitation of the Court is not relevant to the meaning of the phrase), and it is decided that the Plaintiff's proposed charge-sheet does disclose such an offence, the Plaintiff faces the insurmountable difficulty of not having identified any crime that is capable of falling within the jurisdiction of the Court.

(2) *Second*, the accused — King Charles III — would be immune from any criminal prosecution that does proceed. It is a long-established presumption of Australia's constitutional system of government that the King is immune from criminal prosecution in his own courts.³⁶ That presumption has been weakened or effaced in respect of instrumentalities of the Crown and the Executive branch more broadly. But it remains strong in respect of the body politic and the King personally.³⁷ Absent the clearest of statutory intent, which is not present in Div 268 of the *Criminal Code*, a statutory offence will not be construed so as to render the King in his personal capacity liable to criminal prosecution. Any criminal proceeding would therefore be futile."

¹ Commissioner Professor Eleanor Bourke AM at page 79: "...the court documents with the lion – was it a unicorn or not? I mean, that just blows your mind. We're in fairyland."



16. At paragraph 32 on page 9 the authors of the said written submissions, Crown Counsel for Victoria Liam Brown SC and barrister Sam Crock JD, also concluded:

“... the proposed charges fall outside of the limited statutory jurisdiction of the Magistrates’ Court. Accordingly, this Court does not need to consider or determine:

- (1) the existence and content of the crimes of genocide, cultural genocide or ecocide within First Peoples’ sovereign law;
- (2) whether, or to what extent, the concept referred to by the Plaintiff as First Peoples’ “sovereign law” is recognised by the common law of Australia; or
- (3) whether, or to what extent, First Peoples’ “sovereign law” can be recognised or enforced within the Supreme Court’s inherent jurisdiction.”

17. They also conclude at paragraph 49 on page 14 of their written submissions:

“there is no offence of genocide known to the common law of Australia.”

18. Neither Symes, Brown or Crock express any concern at the injustice of the outcome—

- (i) That only one white man can stop and prevent Aboriginal genocide (and the real world likelihood of that happening is zero as the history of this continent shows);
- (ii) That the immunity of judges, legislators and the executive for committing Aboriginal genocide also means that Aboriginal genocide can never be effectively stopped and prevented or at all.
- (iii) That the white genocidal denial of Aboriginal Sovereignty is still legal with no consequences—and certainly such denial, clear proof of your intent to destroy Aboriginal Peoples, can not be stopped or prevented either (just like Aboriginal genocide itself).
- (iv) That the deliberate failure and refusal of the State of Victoria and Commonwealth of Australia to attempt legitimise their basis here by seeking the consent of Aboriginal Peoples is not a flagrant act of Aboriginal genocide.

19. Uncle Robbie Thorpe’s Reply filed on 5 July stated Charles Windsor had no immunity under international law, common law or statute law. And that anyone can prosecute Aboriginal genocide.

20. On 24 June 2024 the Honourable Justice O’Meara of your white supremacist court of “Victoria” confirmed the Prothonotary’s refusal to issue Our statement of claim in similar terms to the preceding factual paragraphs numbered 1 to 11 above— he described Our claims in classic arrogant colonialist terms as “political”, “polemical”, “tendentious” and “verbiage”². The cognitive dissonance between the ongoing Aboriginal genocide and the Australian courts’ “national legacy of unutterable shame” (Mabo case, 3 June 1992, per Deane and Gaudron JJ) is shocking— as is the well-recognised psychological issue of “white denial” of Aboriginal genocide. An application for leave to appeal is being prepared. The application raises similar constitutional questions and also whether it is implicit in your Constitution that no decision of a judicial officer of any court in your State of Victoria or Commonwealth of Australia can be valid that allows legitimises attempts incites conspires aids abets Aboriginal genocide.

² O’Meara J: “the overwhelming problem with the ‘Writ’ is that it is laden with vague and tendentious terms and apparent concepts that are essentially political and polemical” (paragraph 11, Thorpe v Prothonotary & Anor, [2024] VSC 360) and the document is “not in a form appropriate to enable a civil and justiciable controversy to be discerned and determined” (paragraph 13, op cit).

GENOCIDE NOTICE

20. These documents will be included in the investigating brief to the Office of the Prosecutor of the International Criminal Court (to be referred by one or more UN Member States) and in the brief to the International Court of Justice (to be presented by a UN Member State).

21. “Victoria” and “Australia” is one enormous crime scene. Multi-generational Aboriginal genocide is the crime. And still ongoing today. Can this be Constitutional?

Dated 10 July 2024.

Teu Hony



<https://crimesceneaustralia.com/>

To the Prothonotary

And to the defendants

And to the Attorneys-General of the Commonwealth of Australia and the States and Territories.