

IN THE FEDERAL COURT OF AUSTRALIA  
SOUTH AUSTRALIAN REGISTRY  
ADELAIDE  
SOUTH AUSTRALIA

No: SAD 162 of 2010

BETWEEN  
Karno  
[Lancelot Gilbert Walker]

And

THE STATE OF SOUTH AUSTRALIA and others.

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Notice of Constitutional Matter

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Filed by the Applicant, Karno [Lancelot Gilbert Walker]

Karno, Karnigi Ramindjeri  
[Lancelot Gilbert Walker]  
Senior Elder and Lawman  
Ramindjeri Native Title Claim  
Ramindjeri Heritage Association Inc  
Ramindjeri Tribal Elders Council  
576 Seagers Road, MacGillivray S. A. 5223

**1:** The Applicant, for and on behalf of the Ramindjeri Tribe, herein 'the Ramindjeri', speaking through his' Elders Council & Association, gives Notice that these proceedings have the potential to involve a matter arising under the Constitution or involving its interpretation within the meaning of s78B of the Judiciary Act 1903 (CTH).

**Nature of matter:**

**2:** There is currently a claim afoot by the Ramindjeri under the Native Title provisions of the COMMONWEALTH OF AUSTRALIAS' Native Title Act 1993 (CTH). That matter is currently before the Federal Court.

**3:** The concerned Native Title matter is proceeding in the Federal Court at Adelaide.

**4:** The concerned Native Title matter has been adjourned to ~2 October 2012.

**Facts showing the matter is one to which s78B of the Judiciary Act 1903 (CTH) applies:**

**5:** The Ramindjeri are the Original owners and absolute title holders of the lands the subject of the Native Title claim No: SAD 162 of 2010.

**6:** The Ramindjeri Declares it has never vested its' Sovereignty nor Dominion over its' lands and people to the Crown in any form nor guise nor capacity.

**7:** The Crown has been statute barred from 'extending or construing to extend sovereignty or dominion over the Ramindjeris' lands and people at least since the creation of an the Letters Patent relating to the establishment of the Province of South Australia dated 19th February 1836 and the Order In Council made by the United Kingdoms (UK) Queen Victoria on ~2nd August 1875.

**8:** The Letters Patent establishing the Province of South Australia state that:

**8.1:** *'.....Provided always that nothing in those our Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own Persons or in the Persons of their Descendants of any Lands therein now actually occupied or enjoyed by such Natives In Witness whereof We have caused these our Letters to be made Patent Witness Ourselves at Westminster the Nineteenth day of February in the sixth year of our reign.'*

9: The concerned Order In Council (OIC) of ~2nd August 1875 was made as the 1875 Amendment to the Pacific Islander Protection Act (the PIP Act), and included the following terms:

9.1: Section 6 of the PIP Act Amendment:

**6: Power for Her Majesty to exercise jurisdiction over British subjects in islands of the Pacific Ocean; to erect a court of justice for British subjects in the islands of the Pacific; to make ordinances.**- *It shall be lawful for Her Majesty to exercise power and jurisdiction over her subjects within any islands and places in the Pacific Ocean not being within Her Majesties dominions, nor within the jurisdiction of any civilised power, in the same and as ample a manner as if such power or jurisdiction had been acquired by the cession or conquest of territory, and by Order in Council to create and constitute the office of High Commissioner in, over, and for such islands and places, or some of them, and by the same or any other Order In Council to confer upon such High Commissioner power and authority, in her name and on her behalf, to make regulations for the government of her subjects in such islands and places, and to impose penalties, forfeitures, or imprisonments for the breach of such regulations.*

*It shall be lawful for Her Majesty, by Order In Council, to create a court of justice with civil, criminal and admiralty jurisdiction over Her Majesties subjects within the islands and places to which the authority of the said High Commissioner shall extend, and with power to take cognizance of all crimes and offences committed by Her Majesty's subjects within any of the said islands and places, or upon the sea, or in any haven, river, creek, or place within the jurisdiction of the Admiralty; and Her Majesty may, by Order in Council, from time to time direct that all the powers and jurisdiction aforesaid, or any part thereof, shall be vested in and may be exercised by the court of any British designated in such order, concurrently with the High Commissioner's court or otherwise, and may provide for transmission of offenders to any such colony for trial and punishment, and for the admission in evidence on such trial of the depositions of witnesses taken in such islands and places as aforesaid, and for all other matters necessary for carrying out the provisions of such Order in Council.*

*It shall be lawful for Her Majesty, by any Order or Orders in Council, from time to time to ordain for the government of Her Majesty's subjects, being within such islands and places, any law or ordinance which Her Majesty in Council may seem meet, as fully and effectually as any such law or ordinance could be made by Her Majesty in Council for the government of Her Majesty's subjects within any territory acquired by cession or conquest.*

*The person for the time being lawfully acting in the capacity of High Commissioner and any Deputy Commissioner duly appointed and empowered under the provisions of any such Order in Council as aforesaid, and acting under the directions of the High Commissioner, shall have and may exercise and perform any*

*power, authority, jurisdiction, and duty vested in or imposed upon any British consular officer by the principal Act or by any other Act having reference to such consular officers, passed either before or after the passing of this Act; and every such Act shall be construed as if the said High Commissioner and Deputy Commissioner were named therein in addition to a British consular officer.*

**9.2:** Section 7 of the PIP Act Amendment:

**7. Saving of the Rights of the Tribes.**-*Nothing herein or in any such Order in Council contained shall extend or construe to extend to invest Her Majesty with any claim or title whatsoever to dominion or sovereignty over any such islands or places as aforesaid, or to derogate from the rights of the tribes or people inhabiting such islands or places, or of chiefs or rulers thereof, to such sovereignty or dominion, and a copy of every such Order in Council shall be laid before each House of Parliament within thirty days after the issue thereof, unless Parliament shall not then be in session, in which case a copy shall be laid before each House of Parliament within thirty days after the commencement of the next ensuing session.*

**10:** Other legal instruments created by both the UK Parliament and the Australian Parliaments.

**11:** Limitations under Ramindjeri law prohibiting the vesting of Ramindjeri lands in any other party.

**10:** The Constitutional issues which have arisen are:

- a:** Whether the Constitutions of the COMMONWEALTH OF AUSTRALIA and or THE STATE OF SOUTH AUSTRALIA contain/s ANY element/s of sovereignty sufficient to override the Sovereignty and dominion of the Ramindjeri Tribe over themselves and their lands, their law, culture and heritage.
- b:** Whether or not the Ramindjeri have ever, by way of a FULLY INFORMED CONSENT, granted or otherwise acquiesced their Sovereignty and dominion over themselves, their lands, law, heritage and culture to the COMMONWEALTH OF AUSTRALIA and or the STATE OF SOUTH AUSTRALIA.
- c:** Whether the removal of the negative aversion, in Section 9.51.26 of the UK Act known as *63 & 64 Victoria Chapter 12 An Act to Constitute the Commonwealth of Australia Act 1900* (UK) does, in the absence of a replacement positive statement, constitutes or creates a right for the COMMONWEALTH OF AUSTRALIA to make laws for the Tribal people of this continent, but particularly, the Ramindjeri Tribe.

- d.** Whether the removal of the negative aversion in Section 9.51.127 of the UK Act known as (*63 & 64 Victoria Chapter 12 An Act to Constitute the Commonwealth of Australia Act 1900 UK*) does, in the absence of a replacement positive statement, constitutes or creates a right for the COMMONWEALTH OF AUSTRALIA to count the Tribal people of this continent, but particularly the Ramindjeri Tribe, as part of the population of the Commonwealth or any part thereof.
- e:** Whether the Men, Women and children of the Ramindjeri Tribe, as a Sovereign people, were ever or are subject to the jurisdiction of the statutes as created by the United Kingdom parliament as transferred to the Colonies and or adopted by the THE COMMONWEALTH OF AUSTRALIA and or the STATE OF SOUTH AUSTRALIA.
- f:** Whether the Men, Women and children of the Ramindjeri Tribe, as a Sovereign people, were ever or are subject to the jurisdiction of the Common Law of the United Kingdom as transferred to the Colonies and or adopted by the THE COMMONWEALTH OF AUSTRALIA and or the STATE OF SOUTH AUSTRALIA.
- g:** Whether the parliaments of the COMMONWEALTH OF AUSTRALIA and or THE STATE OF SOUTH AUSTRALIA have legislative competence to regulate and or effect and or override the laws, rights, culture, heritage, lands, men, women and or children of the Ramindjeri Tribe.
- h:** Whether the Courts of the COMMONWEALTH OF AUSTRALIA and or THE STATE OF SOUTH AUSTRALIA have a financial joinder with the Crown and thereby render themselves as incompetent to hear any matter as between the Crown, the COMMONWEALTH OF AUSTRALIA and or the STATE OF SOUTH AUSTRALIA.

singed by L.G.Walker [KARNO]

On September the 4<sup>th</sup> 2012

**TO:** The STATE OF SOUTH AUSTRALIA

**NATIVE TITLE ACTION filed by MR WALKER, LANCELOT GILBERT(A)  
on 22-OCT-2010**

Respondent:	KANGAROO ISLAND COUNCIL
Respondent:	TELSTRA CORPORATION LIMITED
Respondent:	COMMONWEALTH OF AUSTRALIA
Respondent:	CITY OF VICTOR HARBOR
Respondent:	THE CORPORATION OF THE CITY OF MARION
Respondent:	THE CITY OF HOLDFAST BAY
Respondent:	THE CITY OF MITCHAM
Respondent:	THE CITY OF TEA TREE GULLY
Respondent:	THE CORPORATION OF THE CITY OF ADELAIDE
Respondent:	THE CORPORATION OF THE CITY OF CAMPBELLTOWN
Respondent:	THE CORPORATION OF THE CITY OF UNLEY
Respondent:	THE CORPORATION OF THE CITY OF NORWOOD, PAYNEHAM AND ST PETERS
Respondent:	DISTRICT COUNCIL OF YANKALILLA
Respondent:	CITY OF WEST TORRENS
Respondent:	CITY OF ONKAPARINGA
Respondent:	CITY OF CHARLES STURT
Respondent:	ALEXANDRINA COUNCIL
Respondent:	ADELAIDE HILLS COUNCIL
Respondent:	CHRISTOPHER S WILTON
Respondent:	MATTHEW J HOAD
Respondent:	NIKOLAOS TSOUPAS
Respondent:	ST VINCENT GULF FISHERIES & INVESTMENTS PTY LTD
Respondent:	JARRAD D BARNES
Respondent:	RENE JOHN GERARD SPRUYT
Respondent:	MAURICE JOHN CORIGLIANO
Respondent:	MICHAEL TSOUPAS
Respondent:	TONY KINGDON
Respondent:	GARRY LEIGH PEEL
Respondent:	BRANKO SARUNIC
Respondent:	DARREN HOAD
Respondent:	BARTHOLOMEW BUTSON
Respondent:	NORMAN WAINE JUSTICE
Respondent:	WILDCATCH FISHERIES SA INC
Respondent:	BILL TSOUPAS
Respondent:	TIMOTHY SCOTT HOAD
Respondent:	RODNEY STEVEN JAMES AYRES
Respondent:	CO2 PTY LTD
Respondent:	ADRIAN PURDIE
Respondent:	CO6 PTY LTD
Respondent:	ANDREW GEERING
Respondent:	GANELON PTY LTD
Respondent:	RUSSELL EDWIN BOORD
Respondent:	JOSEPHINE K FISHERIES PTY LTD

Other:

KELLY HENDERSON

**AND TO:**

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