



HIGH COURT OF AUSTRALIA

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Details of Filing

File Number: H3/2023
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Important Information

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IN THE HIGH COURT OF AUSTRALIA
No H3 of 2023
HOBART REGISTRY

BETWEEN: Attorney-General for the State of Tasmania
Appellant

and

Gregory John Casimaty
First Respondent

and

Hazell Bros Group Pty Ltd
(ACN 088 345 804)
Second Respondent

APPELLANT'S OUTLINE OF ORAL SUBMISSIONS

Part I: Certification

1. This outline is in a form suitable for publication on the internet.

Part II: Outline of propositions to be advanced in oral argument

A. First Issue

2. The nature of a justiciable controversy ordinarily involves legal rights: *AZC20 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2023) 97 ALJR 674 at [31]-[32] (Kiefel CJ, Gordon and Steward JJ); [68]-[77] (Edelman J) (**Vol 6, Tab 40**).
3. Construction of *Public Works Committee Act 1914* (Tas) (**Act**)
 - (a) The scheme of Act concerns parliamentary processes and the function of Parliament in supervising the Executive.

- (b) Supervision of the Executive is an aspect of responsible government: *Egan v Willis* (1998) 195 CLR 424 at 451 (Gaudron, Gummow and Hayne JJ) (**Vol 3, Tab 22**).
4. Does s 16(1) of the Act create a public right?
- (a) The obligation is not owed to the public at large: *Hobart International Airport Pty Ltd v Clarence City Council* (2022) 96 ALJR 234 at [85], [87]-[88] (**Vol 7, Tab 58**).
 - (b) The obligation in s 16(1) is owed exclusively to the Parliament. It facilitates the function of the Parliamentary Works Committee (**PWC**), enabling Parliament to undertake its scrutiny processes without frustration.
5. If s 16(1) creates a public right, is it enforceable by a court?
- (a) The role of exclusive cognisance: should the courts become involved in enforcing s 16(1) it may interfere with the rights of Parliament to control its own oversight processes: *Prebble v Television New Zealand Ltd* [1995] 1 AC 321 at 334 (**Vol 8, Tab 69**).
 - (b) Whether exclusive cognisance goes to jurisdiction or discretion, the result is the same. A court will act appropriately by not interfering with Parliamentary processes: *Halden v Marks* (1995) 17 WAR 447 at 462 (Rowland, Murray and Anderson JJ) (**Vol 7, Tab 56**).

B. Second Issue

6. Article 9: questioning and impeaching parliamentary proceedings breaches parliamentary privilege.
- (a) Reliance upon parliamentary records as evidence of an event/historic fact is permissible, but must stop there: *Church of Scientology v Johnson-Smith* [1972] 1 QB 522 at 531 (**Vol 6, Tab 48**).
 - (b) The drawing of inferences from contents and conclusions contained parliamentary reports is not permitted: *New South Wales Branch of the Australian Medical Association v Minister for Health and Community Services* (1992) 26 NSWLR 116 at 126-7, 128 (Hungerford J) (**Vol 8, Tab 64**); *Comalco Ltd v Australian Broadcasting Corporation* (1983) 78 FLR 449 at 453 (Blackburn CJ) (**Vol 6, Tab 49**).
 - (c) The danger of conflicting decisions arises: *Mees v Road Corporation* (2003) 128 FCR 418 at 444 [85] (Gray J) (**Vol 8, Tab 62**).
7. The pleadings invite the court to infringe Article 9:
- (a) Review of pleadings.

- (b) Reliance upon the existence of the report as an historic fact is insufficient for the purposes of the claim; something more is required and that is impermissible.

Dated: 9 April 2024



Sarah Kay

Emily Warner