



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: C9/2023
File Title: Government of the Russian Federation v. Commonwealth of A
Registry: Canberra
Document filed: Form 27F - Plaintiff's Outline of oral argument
Filing party: Plaintiff
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Important Information

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Note: see rule 44.08.2.

IN THE HIGH COURT OF AUSTRALIA
CANBERRA REGISTRY

BETWEEN: **GOVERNMENT OF THE RUSSIAN FEDERATION**
Plaintiff

and

COMMONWEALTH OF AUSTRALIA
Defendant

**PLAINTIFF'S
OUTLINE OF ORAL SUBMISSIONS**

This outline is suitable for publication on the internet.

1. Termination of the lease freed the Commonwealth as reversioner from the Plaintiff's estate as lessee. That enhancement of the ownership interest of the Commonwealth is an acquisition within the meaning of s 51(xxxi). (PS [32], PSR [8] – [10]).
2. The statute effecting the acquisition did not alter the land use regulation applying to the land. (PS [27], [28], PSR [3]).
3. The acquisition was not for the purpose of making the land available for diplomatic premises, because that was already the state of affairs. And the statute did nothing to augment the potential of the land for use as diplomatic premises. (PS [26] – [28]).
4. The Defendant appears to concede the lack of a purpose for which the acquisition was made (if it be an acquisition), within the meaning of s 51(xxxi). (DS [26], [27]).

5. The first of the two heads of power invoked by the Defendant, being s 122, is inapt for a statute that simply takes the Plaintiff's proprietary interest. That is not a law "for the government of [the territory acquired under s 125]". (PSR [4], [13], [14]).
6. The second of the two heads of legislative power invoked by the Defendant, being s 51(xxix.), entails an argument that proves too much. The fact that a law binds a foreign person, entity or polity, cannot suffice to render it a law with respect to external affairs. In one sense, the statute is properly characterized as with respect to internal affairs.
7. The Defendant does not, and could not cogently, argue that the statute itself comprised the conduct of relations with Russia, or in any relevant sense affected relations with Russia. It is not, for instance, the legislative implementation of an international sanctions obligation imposed on Australia. (PS [29(c)], [29(d)], PSR [5] – [8]).
8. The Defendant appears not to invoke "national security" as amounting to an available head of legislative power, such as by means of the so-called nationhood power. (DS [13] footnote 15).
9. The asserted risks said politically to have occasioned the enactment of the statute appear to be no more than a motivation or attempted justification for the purported exercise of legislative power under s 122 or s 51(xxix.). (PS [20]).
10. The statute does not in terms enact any provision for the identification or alleviation of any national security risk. Press conference assertions are no more capable than recitals or preambles in a statute of making out a state of affairs showing the statute was an exercise of legislative power under any relevant constitutional head. (PS [16] – [21]).
11. If, contrary to the argument above, the statute is supported by one or more heads of legislative power then it does effect an acquisition, and in that fallback case the acquisition would be by definition for a purpose that would satisfy s 51(xxxi.). The statute itself provides for just terms were that so. (PS [30], [31]).

12. There is nothing incongruous about just terms for the acquisition of property in order to alleviate a risk to national security, any more than there would be incongruity in just terms for the acquisition of property to assist the defence of the Commonwealth. (PS [30], [31], PSR [12] – [15]).

6 August 2025

A handwritten signature in black ink, appearing to read 'Bret Walker', with a stylized, cursive script.

Bret Walker