



[2020] HCATrans 180

IN THE HIGH COURT OF AUSTRALIA

Office of the Registry
Brisbane

No B26 of 2020

Between -

CLIVE FREDERICK PALMER

First Plaintiff

MINERALOGY PTY LTD

ABN 65 010 582 680

Second Plaintiff

and

THE STATE OF WESTERN
AUSTRALIA

First Defendant

CHRISTOPHER JOHN DAWSON

Second Defendant

Pronouncement of Orders

KIEFEL CJ
GAGELER J
KEANE J
GORDON J
EDELMAN J

TRANSCRIPT OF PROCEEDINGS

AT CANBERRA BY VIDEO CONNECTION TO MELBOURNE

ON FRIDAY, 6 NOVEMBER 2020, AT 9.47 AM

(Continued from 4/11/20)

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KIEFEL CJ: As will be evident, Justice Gordon is sitting in Melbourne and the rest of us in Canberra.

This special case was heard in Canberra and by video connection to Melbourne on 3 and 4 November 2020 by a Court constituted by Justices Gageler, Keane, Gordon, Edelman and me. By at least a majority the Court orders that the questions stated for the opinion of the Full Court in the special case filed on 22 September 2020 be answered as follows:

- (a) Are the *Quarantine (Closing the Border) Directions* (WA) and/or the authorising *Emergency Management Act 2005* (WA) invalid (in whole or in part, and if in part, to what extent) because they impermissibly infringe s 92 of the *Constitution*?

Answer:

On their proper construction, ss 56 and 67 of the *Emergency Management Act 2005* (WA) in their application to an emergency constituted by the occurrence of a hazard in the nature of a plague or epidemic comply with the constitutional limitation of s 92 of the *Constitution* in each of its limbs.

The exercise of the power given by those provisions to make cl 4 and 5 of the *Quarantine (Closing the Border) Directions* (WA) does not raise a constitutional question.

No issue is taken as to whether the *Quarantine (Closing the Border) Directions* (WA) were validly authorised by the statutory provisions so that no other question remains for determination by a court.

- (b) Who should pay the costs of the special case?

Answer:

The plaintiffs.

6250 I publish that order. The Court will publish reasons at a date to be fixed.

AT 9.49 AM THE MATTER WAS CONCLUDED

