



HIGH COURT OF AUSTRALIA

Public Information Officer

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VINCENT THOMAS O'DONOGHUE v IRELAND AND GRAHAM NEIL CALDER
CHARLES ZENTAI v REPUBLIC OF HUNGARY, STEVEN HEATH, MAGISTRATES
COURT OF WESTERN AUSTRALIA AND COMMONWEALTH OF AUSTRALIA
LARRY RICHARD WILLIAMS v UNITED STATES OF AMERICA AND MAGISTRATES
APPOINTED BY COMMISSION UNDER THE PUBLIC SEAL OF NEW SOUTH WALES

Commonwealth laws conferring jurisdiction on State magistrates in relation to extradition applications were valid, the High Court of Australia held today.

Ireland has sought the extradition of Mr O'Donoghue on fraud charges, Hungary has sought the extradition of Mr Zentai in relation to his alleged involvement in the murder of a Jewish teenager in Budapest in 1944, and the United States has sought the extradition of Mr Williams on tax charges. In each case, pursuant to section 19 of the *Extradition Act*, they were brought before a magistrate to determine their eligibility for surrender in relation to the extradition offences. Section 46 of the Act provides that the Governor-General may arrange with the Governor of a State for the performance by magistrates of functions under the Act.

All three men asserted that section 19 of the *Extradition Act* was invalid because it involved a constitutionally impermissible attempt by the Commonwealth Parliament to impose a duty upon magistrates as holders of a State statutory office. They argued that Commonwealth Parliament lacked the power, without State legislative approval, to impose upon the holder of a State statutory office an enforceable administrative duty where the functions and incidents of that office were exhaustively defined by State legislation.

They all applied to the Federal Court of Australia to restrain the further pursuit of extradition proceedings by Western Australian magistrates, in the cases of Mr O'Donoghue and Mr Zentai, and by New South Wales magistrates, in the case of Mr Williams. Mr O'Donoghue and Mr Zentai had their applications dismissed and they lost appeals to the Full Court of the Federal Court. They appealed to the High Court. Mr Williams's application was dismissed by the Full Court of the Federal Court in its original jurisdiction. His application for special leave to appeal to the High Court was heard with the two appeals.

The High Court, by a 6-1 majority, dismissed the appeals. The application for special leave to appeal was granted, and the appeal treated as heard immediately but dismissed. The Court held that section 19 of the *Extradition Act* was valid. Section 19 did not impose a duty on State magistrates. It conferred a power which, under the *Crimes Act*, the State magistrates were not obliged to accept.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*