



New South Wales
Supreme Court

CITATION :	Wilson v Carr [2002] NSWSC 184
CURRENT JURISDICTION:	Common Law
FILE NUMBER(S) :	SC 10088/02
HEARING DATE(S) :	Monday 18 February 2002
JUDGMENT DATE :	18 February 2002
PARTIES :	John Wilson v The Hon Robert John Carr, MP
JUDGMENT OF :	Michael Grove J at 1

COUNSEL :	
SOLICITORS :	In person (Plaintiff) N.A.. Nicholls (Defendant)
CATCHWORDS :	PLEADING AND PARTICULARS - FAILURE TO DISCLOSE CAUSE OF ACTION - SUMMARY RELIEF
LEGISLATION CITED :	Courts Legislation Amendment (Civil Juries) Act 2001 Imperial Acts Application Act
DECISION :	SUMMONS DISMISSED; PROCEEDINGS PERMANENTLY STAYED

<p>IN THE SUPREME COURT OF NEW SOUTH WALES COMMON LAW DIVISION</p> <p>MICHAEL GROVE J</p>

Monday 18 February 2002

10088/02 - JOHN WILSON v THE HONOURABLE ROBERT JOHN CARR MP

JUDGMENT

1 **HIS HONOUR:** There is before the Court a summons issued by Mr John Wilson. The summons claims a declaration that the defendant, who is identifiable as the Premier of New South Wales:

" ... is guilty of treason and treachery in that he was instrumental in removing the Governor of New South Wales from Government House, Sydney."

2 There is also a second declaration that:

"The defendant is guilty of treachery in that he was instrumental in advising the Governor of New South Wales grant royal assent to legislation which takes away the common right to trial by jury."

WILSON: Excuse me, are you reading something.

3 HIS HONOUR: I am reading from the summons. It seeks orders that the Premier be punished for such treason and treachery and included in the document are paragraphs which are headed "Statement of Authorities". They make reference to the circumstances that a former Governor of New South Wales did not reside in Government House at Macquarie Street, Sydney in circumstances asserted in the paragraphs and later makes reference to a passage of the **Courts Legislation Amendment (Civil Juries) Act 2001**.

4 At the commencement of the proceedings, Mr Wilson, who has appeared for himself, has asserted that I have no jurisdiction to determine any matter because any issue must be tried as a matter of right by a jury. He has made reference to ancient statutes, including Magna Carta and the Bill of Rights. He has drawn my attention to a statute passed at one time by the Parliament of New South Wales, namely, the **Imperial Acts Application Act**.

5 Mr Wilson, I should note, has sought to file in court a request for trial by jury in the form prescribed by the Rules and he says that he has the appropriate jury fee available. I record that I am prepared to accept as a matter of fact that he is in possession of and has tendered the appropriate amount for payment of the jury fee. That preparedness has nothing to do with the conclusion which I have reached.

6 On the matter being called on for hearing, Mr Nicholls of counsel appeared for the defendant. He sought leave to file in court a notice of motion returnable instanter, seeking that my powers be exercised alternatively pursuant to pt 13 r 5 or pt 15 r 26, that is to say, either dismissing or permanently staying the proceedings or striking out the proceedings as embarrassing.

7 I should return to the pleadings. There is set out after the statement of authorities a series of paragraphs described as "particulars". Those paragraphs reveal the concept advanced by Mr Wilson that in some constitutional fashion the jury has the power to override the powers of the legislature and, indeed, the exercise of jurisdiction by judges.

WILSON: Excuse me, your Honour, you are making a final judgment?

8 HIS HONOUR: Mr Wilson has continued to interrupt me during these proceedings and I do not propose to pause to respond to his interruptions.

WILSON: Point of law.

9 HIS HONOUR: And it is perhaps of more than passing interest to note that parts of a transcript of proceedings in the High Court, constituted by McHugh and Callinan JJ on 23 November 2001, have been reproduced in the Australian Law Journal issue of January 2002. I mentioned this circumstance to Mr Wilson. The reason I regard it as relevant is that Mr Wilson has repeated to me virtually identical submissions to those that he was told by one of the High Court judges were entirely untenable. It suffices for present purposes for me simply to say that I agree entirely with what his Honour McHugh J had to say.

10 These proceedings are entirely misconceived. It is not only entirely incorrect for Mr Wilson to assert that he is entitled to have this summons tried by jury but there is no possible merit in the summons, nor is there any possible prospect of the relief sought being granted--

WILSON: You are making a final judgment and you are not allowed to do so.

11 HIS HONOUR: Mr Wilson has continued to interrupt me whilst I am delivering these reasons--

WILSON: Point of order. Point of order. There are points of order in Parliament.

12 HIS HONOUR: He points out that there are points of order in Parliament. This is not a parliamentary sittings but an exercise of the jurisdiction of the Common Law Division of the Supreme Court of New South Wales--

WILSON: A demonstration of tyranny, of tyranny.

13 HIS HONOUR: Mr Wilson has made remarks which might be regarded by some as offensive but I am content to pass over them in the circumstances. The circumstances being that he obviously has a misconceived obsession about the nature of jurisdiction and the protection of the rights of citizens by the various arms of government, including the parliamentary arm and the judicial arm.

14 It is probably sufficient, as I have done, merely to read out the nature of the orders sought to reveal to any sensible person the lack of prospect of success in the proceedings instituted by Mr Wilson. I should add, however, that I have read the so-called particulars and they amount to no more than reproductions of various un-referenced citations for the most part. Un-referenced in the sense that whilst the source is identified, the relevance to the current proceedings remains a matter of pure and misguided imagination.

15 Mr Wilson has suggested that I am both tyrannical and corrupt and, as I say, I let those matters pass. Others can sit in judgment in relation to that. The issue before me is whether or not these proceedings should be terminated in one of the ways sought. In my view such an order is inevitable.

16 Pursuant to Pt13 r5, I make an order dismissing the summons filed on 14 January 2002 and I order that proceedings on the summons be permanently stayed.

17 There is no basis upon which I should consider any order for costs other

than having costs follow the event, and I order the plaintiff to pay the defendant's costs of the motion and the summons.

WILSON: I will be appealing against this corrupt judgment.

18 HIS HONOUR: That is your entitlement, Mr Wilson. These proceedings are now terminated. This is not a forum for general squabbles. Mr Wilson, if you do not sit down I will have you removed.

WILSON: I would like to ask that the transcript be made available as quickly as possible so that I can broadcast what happened on the Internet.

19 HIS HONOUR: You can make an application for the transcript in the usual fashion, Mr Wilson.

Last Modified: 03/15/2002

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