

Ex tempore – revised

THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

ADAMSJ

FRIDAY 22 APRIL 2005

JOHN WILSON v CAROLYN CHALMERS SIMPSON

JUDGMENT

1 HIS HONOUR: This is an application for leave to file in court a summons and affidavit. The summons names John Wilson as plaintiff and Carolyn Chalmers Simpson as defendant. Mr Wilson appears unrepresented. He is here because the Registry refuses, he says, to permit him to file the summons in the ordinary way as the defendant is a judge and the claim is for –

1 . A declaration that the defendant is guilty of an offence under s43 of the Imperial Acts Applications Act 1969 No 30 in that she denied me my right to trial by jury when in the Supreme Court of New South Wales on Tuesday 8 March 2005 and on Wednesday 9 March 2005 in the matter of John Wilson v Dental Board of New South Wales and State of New South Wales, file number 0203395/04.

2. Orders that the defendant be punished in accordance with the penalties laid down in section 43 of the abovementioned Act."

2 The summons contains a paragraph headed "Statement of Charges" which is in the following terms –

'1. Section 43 of the Imperial Acts Application Act 1969 No 30 says, 'Any person guilty of any offence under any Imperial enactment included in Part 1 of the second schedule for which no punishment is otherwise provided is liable to imprisonment for a term of not more than five years or to a fine not exceeding 20 penalty units, or to both such imprisonment and fine.'

2. The 'Second Schedule PART 1 – Constitutional enactments' of the Imperial Acts Application Act 1969 No 30 includes '(1297) 25 Edward 1 (Magna Cara) c29', '(1627) Charles 1 c. 1 (The Petition of Right', '(1640) 16 Charles 1 c. 10 (The Habeas Corpus Act 1640) s 6', and '(1688) 1 William and Mary sess.2 c2 (The Bill of Rights)'. These 'Constitutional enactments' guarantee the Right to Trial by Jury to all Australians."

To his affidavit Mr Wilson has annexed the transcript of proceedings before her Honour on 9 March 2005.

3 It seems to me to be patent on the face of the summons that there is no basis whatever for the relief sought. Nor is there anything disclosed in the transcript which has been supplied to me that suggests that there might be any action available, quite apart from the immunity of judges from suit, which is a fundamental and necessary element of the administration of justice.

4 It follows that leave must be refused and the Registry acted properly in refusing to permit filing of this document. I consider that it is plainly a contumelious abuse of the process of the Court.

I certify that this and the one preceding pages are a true copy of the reasons for judgment herein of His Hon Justice Adams
Associate: A Ritchie
Date: 13 May 2005.