# SUPREME COURT OF QUEENSLAND

| | |
|---|---|
| CITATION: | *R v Anning* [2013] QCA 263 |
| PARTIES: | **R**<br>**v**<br>**ANNING, Daniel Jordan**<br>(appellant) |
| FILE NO/S: | CA No 321 of 2012<br>DC No 153 of 2012 |
| DIVISION: | Court of Appeal |
| PROCEEDING: | Appeal against Conviction |
| ORIGINATING COURT: | District Court at Cairns |
| DELIVERED ON: | 17 September 2013 |
| DELIVERED AT: | Brisbane |
| HEARING DATE: | 9 August 2013 |
| JUDGES: | Fraser and Morrison JJA and Philip McMurdo J<br>Separate reasons for judgment of each member of the Court, each concurring as to the order made |
| ORDER: | **Appeal dismissed.** |
| CATCHWORDS: | CRIMINAL LAW – APPEAL AND NEW TRIAL – VERDICT UNREASONABLE OR INSUPPORTABLE HAVING REGARD TO EVIDENCE – OTHER MATTERS – where appellant convicted on single count of unlawful use of motor vehicle after two day trial – whether verdict was unreasonable having regard to the whole of the evidence – whether State of Queensland has power to legislate in respect of Yidindji Tribe |
| | *Australian Courts Act* 1828 (Imp)<br>*Corporations (Queensland) Act* 1990 (Qld)<br>*Queensland Coast Islands Act* 1879 (Qld) |
| | *Australian Securities Commission v White* [1998] FCA 850, cited<br>*Bloomfield v Brown* (2003) 176 FLR 358; [2003] ACTSC 43, cited<br>*Buzzacott v Gray* [1999] FCA 1525, cited<br>*Coe v Commonwealth of Australia* (1979) 53 ALJR 403; (1979) 24 ALR 118; [1979] HCA 68, cited<br>*Coe v Commonwealth of Australia* (1993) 68 ALJR 110; (1993) 118 ALR 193; [1993] HCA 42, cited<br>*Mabo v Queensland [No 2]* (1992) 175 CLR 1; [1992] HCA 23, cited |

*Members of the Yorta Yorta Aboriginal Community v State of Victoria* (2002) 214 CLR 422; [2002] HCA 58, cited
*R v Buzzacott* (2004) 154 ACTR 37; [2004] ACTSC 89, cited
*New South Wales v The Commonwealth* (1975) 135 CLR 337; [1975] HCA 58, cited
*Thorpe v The Commonwealth [No 3]* (1997) 144 ALR 677; [1997] HCA 21, cited
*Turrbal People v State of Queensland* (2002) 194 ALR 53; [2002] FCA 1082, cited
*Walker v New South Wales* (1994) 182 CLR 45; [1994] HCA 64, cited

COUNSEL: No appearance for the appellant
D A Holliday for the respondent

SOLICITORS: No appearance for the appellant
Director of Public Prosecutions (Queensland) for the respondent

[1] **FRASER JA:** I agree with the reasons of Morrison JA and Philip McMurdo J. For those reasons the appeal should be dismissed.

[2] **MORRISON JA:** This is an appeal by Daniel Jordan Anning from his conviction on a single count of unlawful use of a motor vehicle on or about 4 October 2010. The appellant was convicted after a three day trial, and fined $1,000, with no conviction being recorded.

[3] The notice of appeal raises only one ground, namely that the verdict was unreasonable having regard to the whole of the evidence.

[4] Prior to the hearing two documents entitled "Response to Hearing" were sent to the Registrar by the appellant. In the first, dated 11 July 2013, the appellant raised matters as to how he should be addressed (by what is presumably a tribal name) and then included this paragraph:

> "I was wrongfully and wilfully charged by Queensland Police Officers in Mareeba and Normanton, Queensland in October 2010 for crimes I did not commit and which they knew I had not committed but were intent on charging me without evidence. Evidence provided by way of witness statements indicates they had wilfully destroyed vital evidence that would have proven I had not committed the alleged crimes. I have suffered at the hands of the Queensland Police Service, namely, Police Officers from the Mareeba and Normanton Police Stations since October 2010 and up to January 2013."[1]

[5] None of those assertions raises a ground of appeal, with the possible exception of the allegation of wilful destruction of evidence. However, no evidence of that has been adduced, nor any further contentions supplied to the court. For that reason I can put it to one side.

---

1 Appellant's "Response to Hearing", dated 11 July 2013, pages 1 to 2.

[6] The second "response" was dated 8 August 2013. Once again it raised the question of how the appellant should be addressed, and included the same paragraph as referred to above. Then, under the heading "NOTICE OF REBUTTAL OF CLAIM OF TITLE TO LAND AND CLAIM OF RIGHT" the document included some 20 pages of assertions and argument, largely centred around the following propositions:

(a) the indigenous tribes of Australia, and in particular the Yidindji Tribe, are not subject to the laws of Queensland;

(b) neither the Commonwealth nor Queensland is able to exert any sovereignty over the Yidindji Tribe, or the Yidindji Tribal Moiety; and

(c) the Yidindji Tribal Moiety view themselves as the inalienable and permanent sovereigns of their area of Australia.

[7] I will return to deal with those aspects of the Response later.

[8] The final aspect was a declaration by the appellant that he did not consent "for this matter to be heard in any court other than a Yidindji Tribal Council of Elders Court or Common Law *court de-jure* with a jury of 12 peers". He went on:

> "No invitation to attend any other court will be accepted. No legal jurisdiction other than Yidindji Tribal Council of Elders Court or Common Law will be recognised or understood."[2]

[9] The appellant then, having declined to "enter into your unlawfully created courts",[3] expressly stated that he did not consent to any judgment against him and did not consent to any hearing without him being present.

[10] Consistently with the declarations made in the response of 8 August, the appellant made no appearance, either in person or by any legal or other representative.

**Nature and circumstances of the offence**

[11] Doctor Michael, a medical practitioner, resided in Normanton. He was the owner of a Honda Sedan which he parked "around at the back of the house in a covered area".[4] Dr Michael also had a 4WD vehicle for work purposes which he parked out the front of his residence, on the verge of Landsborough Street.

[12] On the weekend of 4 October he was on call at the Normanton Hospital. He received several calls throughout the day and into the night, including one call after midnight which required him to be at the hospital for about two and a half hours. After he left hospital he drove back to his residence and left the 4WD vehicle on the edge of the footpath. He went in through the front door of his residence, and to his bedroom which was at the front of the house. He estimated that this was at about 4.00 am.

[13] From the lounge, bedroom or kitchen of the house he said that one could not see the carport where the Honda was parked. At about 6.30 that morning he went to work

---

2 Appellant's "Response to Hearing", dated 8 August 2013, page 21.

3 Response, dated 8 August 2013, page 1.

4 AR 69.

for several hours, after which he went straight to the airport because he had to go to Mornington Island. He used the 4WD to go to the surgery that morning, and to the airport. At the time he left the house he had no cause to go to the rear of the house, nor to the carport where the Honda was parked.

[14] He returned to Normanton several days later to discover that the house had been broken into and vandalised. The Honda was missing. He noticed that something had crashed into the steel garden shed. There were rubber burn marks on the grass in a u-shape where a vehicle had been turned and crashed into the garden shed. A number plate had come off a vehicle, which he identified as the front number plate of the Honda.

[15] A shopkeeper in Normanton, Mr Pollitt, gave evidence that he was at his shop from around 12.15 am on 4 October 2010, due to a previous break-in. At about 5.00 am he heard "a car screeching around the streets and then there was an impact at the front of the railway station". He ran out because "the car had … kept going and it was making a terrible noise". He described the sound of the impact as involving "an almighty screech of brakes and a … loud bang".[5]

[16] He could see the car on the opposite side of the road and saw a couple of people, who appeared to have come from the car, run across the car park in front of him. They crossed the car park, then ran across some railway lines and stopped. Then they ran back to the car, this time a little closer to him. They ran through an area of light and he was able to identify one of the persons as someone he knew, Mr Sambo.

[17] Of the two that had headed back towards the car, one went towards the car and the other one ran down Ballone Street. Mr Pollitt was in the course of dialling 000 and talking to police when the car took off and went around the corner into Ballone Street. The car was "making a terrible noise. It was – tyres sort of – one front tyre I assume was squealing and it was dragging bits".[6] There was no challenge to Mr Pollitt's identification of Mr Sambo.

[18] Constable Milligan gave evidence that at about 5.30 am on 4 October 2010 she received a call-out relating to a vehicle involved in a traffic accident. She and another police officer were driving a marked police vehicle towards where they understood the vehicle had been last sighted. At about 5.49 am they saw a male person run across Landsborough Street, coming from where the vehicle was last sighted. They stopped the police vehicle to speak to the male person. She identified that person as the appellant. There was no issue at the trial that the appellant was the person the police spoke to on that morning.

[19] The description of him was that "he was sweating a lot and he was a bit out of breath, like he'd been running".[7] The appellant was asked if he had seen a car driving around and he replied that he had not. He was also asked why he was running, he explained that he was late for a bus back to Mareeba and was running to the church to catch it. When asked his name he said "Derek Jordan Bong" and said he was from Mareeba.[8]

---

5 AR 113.
6 AR 114.
7 AR 48.
8 AR 49.

[20] Following that conversation the police officers continued to patrol in an attempt to locate the vehicle the subject of their report. They observed some fresh tyre marks on Ballone Street and followed those tyre marks along a number of streets until eventually they located Dr Michael's Honda on a dirt road named Henrietta Street. Both left tyres were damaged or blown in some way. The vehicle was locked.

[21] Both police officers identified relevant points on maps, including the impact site, where the vehicle was located, and where the appellant was seen by the police. Those plans show that the appellant was within close proximity of the impact site and not very far from where the vehicle was eventually located.

[22] Cross-examination of the police officers established that there had been no fingerprint examination of the car carried out, nor DNA swabs, nor a search of personal belongings in the vehicle. Constable Milligan pointed out they were unable to open the vehicle. The cross-examination of the second police officer established that there had been no fingerprint examination of Dr Michael's house, nor any other sort of scientific examination.

[23] Evidence was given by Mr George. He said that he, Isaac Owens, Mr Sambo and Daniel were all involved in an incident with a car. According to his account they broke into a house and one of them (probably Mr Sambo) got the keys of the car. The car was then unlocked, they jumped in and drove off. He identified the street as Landsborough Street and gave a basic identification of the house. His evidence was that Daniel was in the driver's seat and it was he who turned the car on.

[24] His evidence was that after they drove off he and Daniel swapped as drivers in the vehicle and it was Mr George who was driving when they "hit the side of the gutter, so, yeah, we – we all jumped out and Daniel jumped back into the driver's seat and dumped the car".[9] He said that Daniel did not live in Normanton but was there on some sort of an excursion with a couple of church people.

[25] In cross-examination Mr George was asked how the vehicle was driven away. He said that "We turned it around. … Yeah, in the yard".[10]

[26] Isaac Owens also gave evidence. His police interview was taped on a video. In that video he referred to a person as DJ, which was a reference to the appellant. His evidence was that the appellant was involved in the events at the house when it was broken into and vandalised. Significantly, his description of what happened when they got into the car was that "… before we [got] going – before we got out the gate, we crashed into the shed".[11] His account also referred to the car being crashed at a later point in time.

[27] Claude Daylight also gave evidence. He referred to the car as being stolen. He identified those in the car as being Jacob (clearly a reference to Mr George), Harold (a reference to Mr Sambo) and another person who he described as "the Mareeba dude" or "the Mareeba fellow".[12] He knew the Mareeba dude's name was Daniel, that he was in Normanton on a visit, and that he was staying at the Christian Centre in Normanton.

---

9 AR 87.
10 AR 93.
11 AR 127.
12 AR 144 and 145.

[28] Isobelle Anderson, the appellant's aunt, gave evidence in the appellant's case. Her evidence was directed to the use of the name Derek Bong. She said that Derek Jordan Bong was a name used by the appellant for family reasons. Her evidence was that the appellant had travelled to Normanton from Mareeba on about 28 September 2010, and returned at around 6.00 pm on 4 October 2010. The itinerary for the trip listed a departure time from Normanton to Mareeba, at 7.00 am on 4 October 2010.

**Was the verdict unreasonable?**

[29] In my opinion a jury, properly directed, could convict the appellant on the evidence referred to above. There were lapses of memory and inconsistencies with some of the witnesses, particularly Mr George, Mr Owens and Mr Daylight. However, their evidence implicated the appellant in the commission of the offence. Significant features of their evidence included not only the identification of the appellant as one of the group involved, but the location of the house and the nature of what was done inside. Further, the evidence that the vehicle was turned around and hit the shed, matched the description of what was found at the property, namely the number plate, that the metal shed had been crashed into, and the tyre marks in the yard showing the vehicle had been turned around before being driven out.

[30] Once that evidence is put beside the fact that the police officers saw the appellant in relatively close proximity to both the impact site and where the vehicle was eventually located, the jury had another reason to be satisfied that the appellant was involved. Then, there was the evidence from the police officers that the appellant was sweating as if he had been running, and his explanation of what he was doing, namely that was that he was running because he was late for the bus back to Mareeba, and was running back to the church to catch it. At that point he was barely a block from the church, and the bus was not scheduled to leave for more than an hour later.

[31] The evidence of Mr George, Mr Owens and Mr Daylight also placed the appellant as being a driver of the vehicle when it left the house. After the vehicle had crashed it was the appellant, on their evidence, who drove the vehicle away to dump it.

[32] In my opinion it was clearly open for the jury to convict the appellant of the charge.

**The contentions in the response dated 8 August**

[33] There are aspects of the response filed on 8 August which suggest a haphazard approach to its compilation. First, it includes the heading "NOTICE OF REBUTTAL OF CLAIM TO TITLE TO LAND AND CLAIM OF RIGHT". No aspect of this appeal concerns a claim of title to land or a claim of right.

[34] Secondly, page 3 commences with the sentence:

> "Furthermore, take notice that the QUEENSLAND Government does not have the lawful right to summons Andrew Turpin to appear in a local magistrates court."

[35] No person in the appeal bears the name "Andrew Turpin". One cannot help but feel that the document has been assembled by a random cutting and pasting from some other documents that have nothing to do with this appeal.

[36] Thirdly, another part of the document[13] seems to include an argument based upon the operation of the "*Acts Interpretation Act* 1989 (NSW)",[14] without identifying in any way why that New South Wales statute would have application in Queensland.

[37] Fourthly, another part refers to the "*Queensland Corporations Act* 1990" in order to develop an argument expressed in these terms:

> "The following "Act" clearly states that no *private person* is subject to *any* rules of this private Corporation, which is called "Queensland Government" registered in Washington DC as "STATE OF QUEENSLAND", CIK: 0001244818,
>
> …
>
> Private Natural People are **NOT** within the Corporation Seal of the Queensland Government and the Queensland Government Copyright."[15]

[38] That part of the submission is a meaningless jumble of ideas.

[39] Fifthly, yet another part of the document[16] develops an argument against "the Crowns' claims to any and all forms of an interest in the lands of the Yidindji people". It asserts that "absolute title over the lands on this continent has remained with the Sovereign Tribes of this continent". It then goes on to make an argument against the forcible removing of the Yidindji Tribes sovereignty over their tribal lands. No aspect of this appeal concerns a claim to land or to remove anyone from their land.

[40] Insofar as one can discern the central core of the argument advanced in the document, it seems to be this:

(a) the Yidindji people are not subject to the laws of Queensland or indeed any laws except those of the Yidindji Tribal Council of Elders;

(b) the Yidindji Tribe, along with other "Sovereign Tribes of this continent", has never ceded sovereignty to the State of Queensland;

(c) the parliament of Queensland has no authority over the "Sovereign Tribes of this Pacific Island continent", and in particular the Yidindji Tribe;

(d) the parliament of Queensland has never sought nor obtained from the Yidindji Tribe their fully informed, knowing consent to legislate on their behalf;

(e) the Yidindji Tribal Moiety are the inalienable and permanent sovereigns of their area of Australia; and

(f) tribal law remains in place, to the exclusion of laws enacted by the State of Queensland.

---

13 Commencing at Response, dated 8 August 2013, page 16 [116].

14 I assume that was intended to refer to the *Interpretation Act 1987* (NSW).

15 Response, dated 8 August 2013, page 2.

16 Commencing at Response, dated 8 August 2013, page 4 [17].

[41] Distilled even further, the point of the document is to assert that the State of Queensland has no power to legislate in respect of the Yidindji Tribe, and since the appellant is a Yidindji Tribal man, he is not subject to those laws.

[42] The question of whether the Crown in right of the State of Queensland could exercise sovereignty over Indigenous inhabitants of that State was settled by the High Court decision in *Mabo v The State of Queensland [No 2]*.[17] Brennan J (as he then was) traced the position insofar as it concerned the applicability of common law to subjects within a colony in these terms:

> "As the settlement of an inhabited territory is equated with settlement of an uninhabited territory in ascertaining the law of the territory on colonization, the common law which the English settlers brought with them to New South Wales could not have been altered or amended by the prerogative – only by the Imperial Parliament or by the local legislature. … In a settled colony in inhabited territory, the law of England was not merely the personal law of the English colonists; it became the law of the land, protecting and binding colonists and indigenous inhabitants alike and equally. Thus the theory which underpins the application of English law to the Colony of New South Wales is that English settlers brought with them the law of England and that, as the indigenous inhabitants were regarded as barbarous or unsettled and without a settled law, the law of England including the common law became the law of the Colony (so far as it was locally applicable) as though New South Wales were "an uninhabited country … discovered and planted by English subjects". The common law thus became the common law of all subjects within the Colony who were equally entitled to the law's protection as subjects of the Crown. Its introduction to New South Wales was confirmed by s. 24 of the *Australian Courts Act* 1828 (Imp.). As the laws of New South Wales became the laws of Queensland on separation of the two Colonies in 1859 and, by the terms of the *Queensland Coast Islands Act* 1879 and the Governor's Proclamation, the Murray Islands on annexation became subject to the laws in force in Queensland, the common law became the basic law of the Murray Islands. Thus the Meriam people in 1879, like Australian Aborigines in earlier times, became British subjects owing allegiance to the Imperial Sovereign entitled to such rights and privileges and subject to such liabilities as the common law and applicable statutes provided."[18]

[43] Justices Deane and Gaudron came to the same conclusion.[19]

[44] Justice Brennan referred to the acquisition of sovereignty and whether that could be challenged in courts such as this Court. He said:

> ""The acquisition of territory by a sovereign state for the first time is an act of state which cannot be challenged, controlled or interfered with by the courts of that state"

---

17 *Mabo v Queensland [No 2]* (1992) 175 CLR 1.

18 *Mabo* at 37-38 (internal references omitted).

19 *Mabo* at 114.

> This principle, stated by Gibbs J. in the *Seas and Submerged Lands Case*, precludes any contest between the executive and the judicial branches of government as to whether a territory is or is not within the Crown's Dominions. The Murray Islands were annexed by an exercise of the prerogative evidenced by the Letters Patent; a mode of acquisition recognized by the common law as a valid means of acquiring sovereignty over foreign territory. The recognition is accorded simply on the footing that such a prerogative act is an act of State the validity of which is not justiciable in the municipal courts."[20]

[45] In terms of the establishment of sovereignty, and the inability of a court such as this Court to challenge that question, the joint judgment of Deane and Gaudron JJ had this to say:

> "Under British law in 1788, it lay within the prerogative power of the Crown to extend its sovereignty and jurisdiction to territory over which it had not previously claimed or exercised sovereignty or jurisdiction. The assertion by the Crown of an exercise of that prerogative to establish a new Colony by "settlement" was an act of State whose primary operation lay not in the municipal arena but in international politics or law. The validity of such an act of State (including any expropriation of property or extinguishment of rights which it effected) could not be challenged in British courts. Nor could any promise or undertaking which it embodied be directly enforced against the Crown in those courts. The result is that, in a case such as the present where no question of constitutional power is involved, it must be accepted in this Court that the whole of the territory designated in Phillip's Commissions was, by 7 February 1788, validly established as a "settled" British Colony."[21]

[46] In the earlier decision of *Coe v Commonwealth of Australia*[22] the High Court dealt with an application to strike out paragraphs of a statement of claim which included assertions of sovereignty on the part of a particular Aboriginal tribe. The High Court rejected the possibility of a subsisting Aboriginal claim to sovereignty. Justice Gibbs (as he then was) stated:

> "The aboriginal people are subject to the laws of the Commonwealth and of the States or Territories in which they respectively reside. They have no legislative, executive or judicial organs by which sovereignty might be exercised. If such organs existed, they would have no powers, except such as the law of the Commonwealth, or of a State or Territory, might confer upon them. The contention that there is in Australia an aboriginal nation exercising sovereignty, even of a limited kind, is quite impossible in law to maintain."[23]

[47] Justice Jacobs, in the same case, refused to allow the claim to proceed, on the basis that it disputed the validity of the Crown's claim of sovereignty and that they were

---

20 *Mabo* at 31 (internal references omitted).

21 *Mabo* at 78-79 (internal references omitted).

22 (1979) 24 ALR 118.

23 *Coe v Commonwealth of Australia* (1979) 24 ALR 118 at 128-129, Aickin J concurred.

"not matters of municipal law but of the law of nations and are not cognizable in a court exercising jurisdiction under that sovereignty which is sought to be challenged".[24]

[48] In a later edition of *Coe v Commonwealth of Australia*,[25] Mason CJ stated:

> "*Mabo (No 2)* is entirely at odds with the notion that sovereignty adverse to the Crown resides in the Aboriginal People of Australia. The decision is equally at odds with the notion that there resides in the Aboriginal people a limited kind of sovereignty embraced in the notion that they are "a domestic dependent nation" entitled to self-government and full rights (save the right of alienation) or that as a free and independent people they are entitled to any rights and interests other than those created or recognised by the laws of the Commonwealth, the State of New South Wales and the common law. *Mabo (No 2)* denied that the Crown's acquisition of sovereignty over Australia can be challenged in the municipal courts of this country."[26]

[49] The decision of Mason CJ in *Coe*[27] has been adopted a number of times in the High Court, Federal Court and the Supreme Court of the Australian Capital Territory.[28]

[50] In *Walker v The State of New South Wales*[29] Mason CJ once again had to consider assertions of the sovereignty of a particular Aboriginal people. He rejected the assertion saying:

> "There is nothing in the recent decision in *Mabo v. Queensland [No. 2]* to support the notion that the Parliaments of the Commonwealth and New South Wales lack legislative competence to regulate or affect the rights of Aboriginal people, or the notion that the application of Commonwealth or State laws to Aboriginal people is in any way subject to their acceptance, adoption, request or consent. Such notions amount to the contention that a new source of sovereignty resides in the Aboriginal people.
>
> …
>
> It is a basic principle that all people should stand equal before the law. … The general rule is that an enactment applies to all persons and matters within the territory to which it extends, but not to any other persons and matters. … just as all persons in the country enjoy the benefits of domestic laws from which they are not expressly excluded, so also must they accept the burdens those laws impose."[30]

---

24 *Coe v Commonwealth of Australia* (1979) 24 ALR 118 at 132.

25 *Coe v The Commonwealth* (1993) 118 ALR 193.

26 *Coe v The Commonwealth* (1993) 118 ALR 193 at 200 (internal references omitted).

27 (1993) 118 ALR 193.

28 *Thorpe v Commonwealth (No 3)* (1997) 144 ALR 677 at 683; *Australian Securities Commission v White* [1998] FCA 850 per Drummond J; *Buzzacott v Gray* [1999] FCA 1525 per Von Doussa J at [31]; *Bloomfield v Brown* [2003] ACTSC 43 per Connolly J at [34]–[35]; *R v Buzzacott* [2004] ACTSC 89 per Connolly J at [3]-[9].

29 *Walker v New South Wales* (1994) 182 CLR 45.

30 *Walker* at 48, 49-50 (internal references omitted). See also *Turrbal People v Queensland* [2002] FCA 1082 at [8].

[51] Chief Justice Mason then referred to his decision in *Coe*[31] and concluded:

> "Even if it be assumed that the customary criminal law of Aboriginal people survived British settlement, it was extinguished by the passage of criminal statutes of general application. In *Mabo [No. 2]*, the Court held that there was no inconsistency between native title being held by people of Aboriginal descent and the underlying radical title being vested in the Crown. There is no analogy with the criminal law. English criminal law did not, and Australian criminal law does not, accommodate an alternative body of law operating alongside it. There is nothing in *Mabo [No. 2]* to provide any support at all for the proposition that criminal laws of general application do not apply to Aboriginal people." [32]

[52] More recently the High Court referred again to the consequences of sovereignty in *Members of the Yorta Yorta Aboriginal Community v State of Victoria*.[33] Gleeson CJ, Gummow and Hayne JJ stated:

> "It is important to recognise that the rights and interests concerned originate in a *normative* system, and to recognise some consequences that follow from the Crown's assertion of sovereignty. Upon the Crown acquiring sovereignty, the normative or law-making system which then existed could not thereafter validly create new rights, duties or interests. Rights or interests in land created after sovereignty and which owed their origin and continued existence *only* to a normative system other than that of the new sovereign power, would not and will not be given effect by the legal order of the new sovereign.
>
> …
>
> But what the assertion of sovereignty by the British Crown necessarily entailed was that there could thereafter be no parallel law-making system in the territory over which it asserted sovereignty. To hold otherwise would be to deny the acquisition of sovereignty and as has been pointed out earlier, that is not permissible."[34]

[53] Thus, insofar as the appellant contends that the Yidindji Tribe has sovereignty over its part of Queensland to the exclusion of the State of Queensland, or that he is beyond the reach of Queensland's criminal law, those issues have long since been determined against him. There is no substance in the points raised.

**Conclusion**

[54] For the reasons set out above I would dismiss the appeal.

**Order**

[55] Appeal dismissed.

---

31 (1993) 118 ALR 193.

32 *Walker* at 50.

33 *Members of the Yorta Yorta Aboriginal Community v State of Victoria* (2002) 214 CLR 422.

34 *Yorta Yorta* at 443-444.

[56] **PHILIP McMURDO J:** I agree with Morrison JA that this appeal should be dismissed.

[57] At the trial the question was whether the appellant was part of the group which went to Dr Michael's house and took his car in the early hours of 4 October 2010. Two of that group were Jacob George and Isaac Owens, who had each pleaded guilty for the unlawful use of the car. They gave evidence that the appellant was with them and had driven the car for some of the time. The trial judge correctly directed the jury about the danger of convicting the appellant on the evidence of those witnesses if it was not supported by independent evidence which implicated the appellant. But within that category, the jury was directed, was the evidence of the police officers who spoke to the appellant in the vicinity where they found the car shortly afterwards. The appellant's presence there had no apparent explanation and that which he offered to the police officers was implausible.

[58] There was also the evidence of Mr Daylight, which provided a purported identification of the appellant. But the weight to be given to his evidence was minimal for several reasons. There were many inconsistencies in his evidence and, as it happened, he had committed a distinct offence of his own on that morning.

[59] There was sufficient in the evidence of the police officers to support the evidence of the accomplices and to make it open to the jury to be able to convict the appellant.