



Trial set in Aboriginal etchings dispute

10 November 2004

Victoria:

A test case over the disputed ownership of Aboriginal artefacts on loan from two British museums is set for trial in the Federal Court next month.

Museum Victoria is challenging the power of a government heritage inspector to make successive "emergency declarations" over two 1850s bark etchings and a ceremonial emu figure, preventing their return to London. At today's preliminary hearing, Jack Fajgenbaum QC, for the museum, said the objects must be returned to fulfil the loan agreement with the British Museum and the Royal Botanic Gardens. Museum Victoria had been due to return the items to the British institutions by September 30 until it was stopped by the series of rolling orders.

Mr Fajgenbaum said the museum had begun litigation "with great reluctance" and it "quite conceivable" the British museums may be willing to re-loan the items to Australia if they were returned. In its application, the museum has accused heritage inspector Rodney Carter, the sole respondent in the case, of improperly using his powers to keep the objects in Australia. There was no reasonable ground for believing the objects were threatened with injury or desecration, the museum claimed. Instead the real purpose of the declarations was to gain control of them for the traditional owners.

The Dja Dja Wurrung Native Title Group, which claims ownership of the artefacts, today applied to be represented in the case.

Justice Donnell Ryan listed a two-hearing beginning December 15 but also ordered a compulsory mediation with a court registrar before then.

Outside the court, Mr Carter said he made the orders because he "100 per cent believed" the Dja Dja Wurrung thought the objects were being desecrated by their removal to London. Mr Carter said he had become aware the items had been "touched up" with repairs without notice given to the Dja Dja Wurrung.

"It would be like me repairing one of the great European artworks, it's just not done."

Both Mr Carter and Dja Dja Wurrung spokesman Gary Murray called on Victorian Aboriginal Affairs Minister Gavin Jennings to save the artefacts from return.

"It's an opportunity now to stand up as a nation and say we do support these (Indigenous) groups," Mr Carter said.

"They're very small in the scheme of things but they're trying to hang on to something that is very significant to Australia if not the world."

Source: AAP