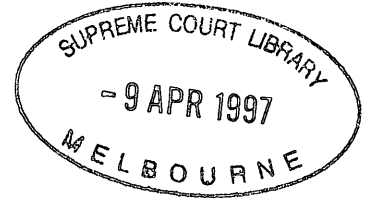


**IN THE ADMINISTRATIVE APPEALS
TRIBUNAL OF VICTORIA**

NO. 1996/041557

GENERAL DIVISION

AT MELBOURNE



APPLICANT : NIGEL LUKE LESKOSEK


RESPONDENT : CRIMES COMPENSATION TRIBUNAL

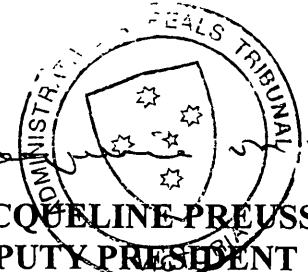
BEFORE : DEPUTY PRESIDENT JACQUELINE PREUSS

DATE OF DECISION: THE 21ST DAY OF MARCH 1997

THE DECISION OF THE TRIBUNAL IS THAT:

- (1) The decision under review is set aside.
- (2) The applicant is awarded the sum of \$4,000 as compensation for pain and suffering pursuant to the *Criminal Injuries Compensation Act 1983*.
- (3) The respondent pay two thirds of the applicant's costs of this appeal and his disbursements.


**JACQUELINE PREUSS
DEPUTY PRESIDENT**

A circular seal of the Administrative Appeals Tribunal of Victoria. It features a shield with stars in the center, surrounded by the text "ADMINISTRATIVE APPEALS TRIBUNAL OF VICTORIA".

IN THE ADMINISTRATIVE APPEALS
TRIBUNAL OF VICTORIA

NO. 1995/041557

GENERAL DIVISION

AT MELBOURNE

APPLICANT : NIGEL LUKE LESKOSEK

RESPONDENT : CRIMES COMPENSATION TRIBUNAL

BEFORE : DEPUTY PRESIDENT JACQUELINE PREUSS

DECISION : THE 21ST DAY OF MARCH 1997

REASONS FOR DECISION

The applicant seeks to review a decision of the Crimes Compensation Tribunal made on 23 November 1995 refusing his application for compensation pursuant to the *Criminal Injuries Compensation Act 1983* ("the Act") on the basis that his injuries were not caused by a criminal act as defined by Section 3 of the Act. The application arose in the following circumstances.

On 10 April 1995, the applicant, who at that time was aged 11 years, was standing holding his bicycle, talking to a friend at the front of his friend's house at 10 Francis Crescent, Ballarat. Without warning, two bull terrier dogs who were at large in the street, crossed the road and attacked him, the larger dog forcing the applicant to the

ground whilst biting him and the smaller dog attempting to bite him on the head. The applicant's friend ran inside his house to obtain assistance from his father who ran out to see the applicant lying on the ground with his hands protecting his face and the two dogs biting his leg. Another man arrived on the scene and the two men were able ultimately to get the dogs away from the boy.

The police were called and on arrival, one of the police officers, Constable Stephens, saw the two dogs roaming the street. When he and the other officer, Senior Constable Grubb, attempted to put the dogs back into the front yard at No. 7 Francis Street, the larger of the two dogs bit Constable Stephens on the leg. He struck the dog with his baton and the dog returned to the yard. The other dog followed and he shut the gate. Constable Stephens observed that the gate had a catch to hold it shut but there was no lock attached or any other device to prevent the gate being opened.

A short time later Mr Albert Berg arrived at the scene. When questioned by the police he agreed that both dogs were his and that they were unregistered. When told that the dogs had got out and attacked a young boy he replied:

"Yeah the bloody gate, they haven't got out before."

When asked the reason for owning "attacking" dogs, Mr Berg replied:

"No reason, they just got out of the yard."

Constable Stephens in his police statement which formed part of the Section 36 material before the Tribunal said as follows:-

"[Mr Berg] became very upset after he had found out that the dogs were out of the yard and had attacked a person and appeared angry that the dogs had been let out of the yard. The Ranger was contacted and attended the scene. [Mr Berg] agreed to follow the Ranger to the RSPCA with the dogs to keep them secure."

Mr Berg was subsequently convicted of breaches of Section 22(1) and Section 4(2) of the *Dog Act* 1970 (repealed from 9 April 1996 by the *Domestic (Feral and Nuisance) Animals Act* 1994) and fined a total of \$500. Section 22(1) states:

"The owner of a dog which rushes at attacks worries or chases any person or any horse cattle sheep goat or poultry shall be guilty of an offence and liable in respect of any damage so caused by the dog."

Section 4(2) states:

"The owner of any dog that is over the age of six months and not ... registered shall be guilty of an offence."

Immediately after the attack the applicant was taken to Ballarat Base Hospital where his wounds were cleansed. Dr Churcher, a general practitioner who saw him the next day, in a medical report dated 19 April 1995 and tendered in evidence said that examination revealed extensive bruising over the applicant's left thigh with multiple abrasions. He also noted bruising and some small abrasions to the applicant's right thigh. He said the applicant complained of nightmares waking him two or three nights a week, with the face of a large dog being the recurrent theme. The nightmares settled slightly over the three days after the attack.

It was the view of Dr Gibney, consultant psychiatrist, who examined the applicant on 23 July 1996 for the purpose of providing a psychiatric assessment, that he suffered from a post traumatic stress disorder after being attacked by the dogs. He noted that the applicant still had bad dreams in which he could clearly identify the dogs that attacked him and that he woke from those dreams agitated and distressed. He also had vivid flashbacks of the scene of the attack and he has developed a fear of dogs ever since. Dr Gibney said whilst those symptoms were persisting they were not as severe as they were immediately after the attack. He expressed the view that it was probable that the applicant would be left with a permanent apprehension about going near dogs,

but there could be some further improvement in the symptoms of his post traumatic stress disorder with the passage of time.

The applicant in his viva voce evidence before the Tribunal said that he did not call the dogs to him or do anything to provoke them when he was attacked. He said that he was bitten on his left thigh and his right leg and he also has a scar from a bite behind his right ear. After the attack he could not play football or run for some time. He is now scared of all dogs and he has dreams about the attack; he used to get the bad dreams every night but now he gets them about once a week.

Ms Reeves, the applicant's mother, said in evidence that she had seen the dogs outside Mr Berg's property prior to and after the attack on her son. She said there was a fence three feet high made of wire round the property, a driveway with gates and a single gate. She said there was no fastener on the gate when she looked at the gate after her son was bitten and she thought that the latch that shut the gate was not operating. She said that before the attack her son was outgoing, enjoyed sports, riding his bike and loved his pets. After the incident he was frightened of dogs including his own. Initially he slept badly for two weeks and she had to drive him to school because he was frightened of another attack. He is still wary of dogs and will not go into the areas where the dogs lived. His improvement was arrested in December 1995 when his sister was bitten by an Alsatian dog and suffered serious injuries.

Ms Sharon Gladman gave evidence before the Tribunal that she knew Mr Berg when he lived at 7 Francis Crescent, Ballarat (he has since left the premises) and that she had visited him there on about 10 occasions. She said that Mr Berg had a number of bull terriers but at all times when she knew him he had the same two dogs that were involved in the attack on the applicant. She said the dogs sat on the front doorstep. They were very aggressive and she knew it was only safe to go into the property if Mr Berg was there. When she visited she would call out to Mr Berg who would open the

wire door and she then felt safe to walk up the front path. The last time she was at his place was in January-February 1995.

Ms Gladman said that in December 1994 or January 1995 she had visited Mr Berg and was walking from the front door to the gate when the larger dog bit her leg. She called for Mr Berg to assist her, but he did not respond and she was only able to shake the dog off when she jumped the fence. On occasions she has seen the dogs wandering outside Mr Berg's property. On one occasion she saw the smaller dog about 100 metres away and on at least three other occasions she has seen both dogs wandering in nearby Woodward's Court, unaccompanied, unmuzzled and unrestrained.

She said there was a fence around the front yard, three feet high, of heavy strong wire mesh. There was one gate and a driveway gate. The gates were the same height as the fence but they had no latch or a padlock. She said the gate could be pushed open without turning or lifting anything and the gate would bang behind her as there was no handle or lever. When asked whether there was any click when the gate opened or shut she said possibly there was but she did not think it was working as the gate swung two or three times. She has seen one of the dogs jump the fence.

Ms Gladman said that Mr Berg trained the dogs to be aggressive and she saw Mr Berg and other men bait and tease the dogs every time she went to Mr Berg's house. For example, she saw Mr Berg tie a cushion around his arm and wave it in front of the dogs' head encouraging the dogs to attack the cushion. As a result there were big marks in the cushion. He would also stare at the dogs and abuse them, using crude and unpleasant language and get down on the floor and provoke the dogs so that they would start to bark and jump up.

A letter from a council officer of the City of Ballarat dated 12 February 1996, tendered in evidence, indicates that on 1 March 1994 and 23 March 1994 a white bull terrier later claimed by Mr Berg was found at large and on 2 November 1995 a white/brindle

bull terrier again claimed by Mr Berg was found at large. It was not argued for the respondent that the dogs were not owned by Mr Berg or that they were not the dogs that attacked the applicant.

Mr Berg was notified of the proceedings before the Tribunal. He swore an affidavit on 3 December 1996 which was filed on behalf of the applicant. In his affidavit he stated, in part as follows:-

"I choose not to disclose my address.

I am aware of an application being made by Nigel Luke Leskosek for injuries received as a result of an incident on 10.4.95 outside 7 Francis Crescent, Ballarat. I was not home at the time Nigel suffered injury. I returned home shortly after the incident. ...

I have been informed by Ballarat & District Aboriginal Co-operative that Justin Burke, Solicitor has been trying to contact me in relation to an application by Nigel for compensation for his injuries ... I do not wish to be involved in this application. I do not wish to give evidence, other than this Affidavit.

I am aware that the AAT will be asked to make a finding as to whether the incident involving Nigel's injury constitutes a criminal act by me. ...

Some time before 10.4.95 the gate at my rented premises at 7 Francis Crescent, Ballarat was causing a problem as it did not stay shut. I fixed a lock to the gate to keep it shut but this became a nuisance as I had to unlock the gate to let anyone in. Accordingly I removed the lock at a date that I do not recall but which I know was before the day of Nigel's injury. I remember that day well. I was not at home at the time of the injury but remember coming home to find out that my dog or dogs had attacked Nigel.

As at 10.4.95 I had two cross-bull terriers. I had trained these dogs to protect me and my property. I had trained the dogs to growl if there was any knock at the door. I had trained the dogs to allow anyone to enter the yard of my property but to not let them out, especially if they were strangers. The dogs would also fight amongst themselves, particularly over food.

One of the dogs had previously attacked someone in the front yard of my property.

On 1.3.94 and on 23.3.94 the City of Ballarat impounded a dog owned by me, found at large in the Ballarat area."

It was not in issue that the applicant suffered injury as a result of the dogs attacking him. What was in dispute was whether, on the balance of probabilities, the applicant was a victim of the criminal act of another person for the purposes of Section 20(2)(a) of the *Criminal Injuries Compensation Act*. That section states:-

"The Tribunal shall not make an award of compensation-

- (a) where the Tribunal is not satisfied, on the balance of probabilities, that the person whom the applicant claims was injured or killed was a victim within the meaning of this Act;*

... "

The definition a of criminal act is defined in Section 3 of the Act as follows:-

"criminal act" means an act or omission-

- (a) which is an offence punishable by imprisonment (other than imprisonment in default of distress for non-payment of a fine), whether or not punishable on indictment or on summary conviction, and whether or not also punishable by another penalty; or*
- (b) [Not relevant]"*

It is clear that Mr Berg's convictions under the *Dog Act* are not punishable by imprisonment and are not sufficient to entitle the applicant to compensation under the Act. Mr Hutchinson, counsel for the applicant, contended however that Mr Berg had committed a criminal act by virtue of Sections 17, 18, 23 and 24 of the *Crimes Act*

1958 by virtue of his failure to take adequate steps to have the dogs securely confined in his premises. Those sections read as follows:-

"17. A person who, without lawful excuse, recklessly causes serious injury to another person is guilty of an indictable offence.

Penalty: Level 5 imprisonment.

18. A person who, without lawful excuse, intentionally or recklessly causes injury to another person is guilty of an indictable offence.

Penalty: If the injury was caused intentionally - level 6 imprisonment;

If the injury was caused recklessly - level 7 imprisonment."

"23. A person who, without lawful excuse, recklessly engages in conduct that places or may place another person in danger of serious injury is guilty of an indictable offence.

Penalty: Level 6 imprisonment.

24. A person who by negligently doing or omitting to do an act causes serious injury to another person is guilty of an indictable offence.

Penalty: Level 7 imprisonment."

The offences all carry terms of imprisonment. "Serious injury" referred to in Sections 17, 23 and 24 is defined in Section 15 of the *Crimes Act* as:

"15. In this sub-division -

"injury" includes unconsciousness, hysteria, pain and any substantial impairment of bodily function;

"serious injury" includes a combination of injuries."

It was not contended for the respondent that the applicant had not suffered a serious injury within the meaning of Section 15 as a result of the attack.

Sections 17, 18 and 23 of the *Crimes Act* provide that a person is guilty of an indictable offence if he or she, without lawful excuse, “recklessly causes serious injury to another person” (Section 17), “intentionally or recklessly causes injury to another person” (Section 18), or “recklessly engages in conduct that places or might place another person in danger of serious injury” (Section 23). In *Redmond v Crimes Compensation Tribunal* (unreported) a decision of Deputy President Galvin delivered on 18 December 1996, Mr Galvin said at page 10 in dealing with Sections 22 and 23.

“Save that in the case of s.22 of the Crimes Act the reckless conduct complained of may place another person in danger of death rather than in danger of serious injury as contemplated by s.23, the elements of the two offences are identical. To establish the offence it must be shown that the perpetrator engaged in conduct which a reasonable person in his position would realize placed or might place another in danger of serious injury, that he did so without lawful excuse and that he was reckless in that he foresaw that the probable consequence of the conduct would be that some person other than himself would be seriously injured. In Filmer v Barclay [1994] 2 VR 269 at 276 the Supreme Court said:

‘To establish that the conduct the subject of the charge is engaged in recklessly it must be proved that the accused engaged in the same having foreseen or realised that the probable consequences of engaging in such conduct would result in another person sustaining serious injury. It is not sufficient in order to prove that the person charged with an offence under s.23 of the Act recklessly engaged in the relevant conduct to prove that he foresaw the probable physical result of his actions without having regard to whether the person who engaged in the relevant conduct foresaw that the probable consequence of the same would be that another person would sustain serious injury.’

In R v Nuri [1990] VR 641 at p.643 the Supreme Court said:

of Section 18. Accordingly, the offences which the applicant alleges Mr Berg committed under Sections 17, 18 and 23 of the *Crimes Act* have not been established.

I turn now to Section 24 of the *Crimes Act*. Section 24 replaced Section 26 of the *Crimes Act* by virtue of Section 8 of the *Crimes (Amendment) Act* 1985. Section 26 was not in substantially different terms to the present Section 24 and stated:-

“Whosoever by negligently doing or omitting to do any act causes grievous bodily injury to any other person, shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than three years.”

In *R v Shields* [1981] V.R. 717, the Full Court constituted by Young C.J., Anderson and Brooking, JJ, held that Section 26 of the *Crimes Act* (as it then was) required a degree of negligence appropriate to a charge of manslaughter. The Court gave consideration to the direction to be given to a jury concerning the meaning of negligence on a count laid under Section 26 and a count of culpable driving causing death laid under Section 318(2)(b) of the *Crimes Act* and said at pp. 723-724 as follows:-

“Having regard to the view which we have formed of the effect of s. 26, we consider that we should not part with this case without giving further guidance to trial judges as to how juries should be directed concerning negligence where an offence against that section is charged. If the count under s. 26 is not joined with a count under s. 318, no difficulty arises: the direction should be based upon that which would be appropriate to a charge of manslaughter, the usual manslaughter direction being modified so as to reflect the circumstance that s. 26 is concerned with grievous bodily injury. Accordingly the jury may be directed that the act or omission must have taken place in circumstances which involved such a great falling short of the standard of care which a reasonable man would have exercised, and which involved such a high risk that grievous bodily injury would follow, that the act or omission merits punishment under the criminal law: cf. Nydam v. R., [1977] V.R. 430, at pp. 444-5. A comparison with civil negligence will also be helpful.

It is when a count under s. 26 is joined with a count under s. 318 specifying negligence that the trial judge is likely to experience difficulty. The form of direction to be given to a jury faced with a charge under s. 318 specifying negligence has been laid down by this Court in R. v. Horvath, [1972] V.R. 533, at p. 539; R. v. Lucas, [1973] V.R. 693, at p. 701, and R. v. Stephenson, [1976] V.R. 376, at p. 383, and what was there laid down should be adhered to whether the count under s. 318 stands alone or is joined with a count under s. 26. How, then, is the jury to be charged in relation to s. 26 once a direction has been given in the usual terms concerning negligence for the purposes of s. 318? It would tend to produce confusion if the direction concerning s. 26 were to the effect of that which we have formulated, based upon Nydam v. R., supra. A jury might well inquire as to the difference between that formulation and the statutory formulation appearing in s. 318.

Negligence is defined in s. 318(2)(b) as failure unjustifiably and to a gross degree to observe the standard of care which a reasonable man would have observed in all the circumstances of the case. In our opinion if negligence in this sense is established the negligence proved is of the same degree as that required to support a charge of manslaughter. Reference may be made, by way of example, to Akerele v. R., [1943] A.C. 255, at p. 262; Callaghan v. R. (1952), 87 C.L.R. 115, at p. 123; A.-G. For Ceylon v. Perera, [1953] A.C. 200, at p. 205. Moreover, the word "unjustifiably" in s. 318(2)(b) adds nothing: in this regard we agree with the tentative expression of opinion in R. v. Lucas, supra, at p. 701."

In the present case having regard to the comments of the Full Court I am satisfied that in failing to take steps to adequately confine the dogs there was a failure on the part of Mr Berg to a gross degree to exercise the standard of care which a reasonable man would have exercised in all the circumstances, that his failure involved a high risk that serious injury would follow and that the failure merits punishment of Mr Berg under the criminal law.

The basis for my findings are as follows:-

- (1) Mr Berg's dogs were not securely confined by him in the premises at 7 Francis Street, Ballarat in that:-

- (a) they were allowed by Mr Berg to remain at large in the front yard;
 - (b) there was no lock or other device fitted on the gate to the front yard sufficient to prevent a person opening the gate;
 - (c) there was nothing to stop the dogs getting out if someone opened the gate.
- (2) On the day of the attack on the applicant the dogs had got out.
- (3) The dogs had got out on a number of occasions prior to the attack on the applicant.
- (4) Mr Berg knew the dogs had got out prior to the attack on the applicant. In this regard I do not accept his statement to police that the dogs had not got out before as it does not accord with the evidence of Ms Gladman and Ms Reeves and the material tendered in evidence from the City of Ballarat. In not accepting Mr Berg's statement I have also had regard to the fact that he chose not to attend the hearing and any evidence which he may have given was not subject to scrutiny by way of cross-examination. Further, in 1992 he was charged with theft and obtaining property by deception and both charges were adjourned without conviction until 28 June 1992. Whilst those matters are not directly relevant to these proceedings they are relevant to the question of Mr Berg's credit.
- (5) Whilst the evidence does not establish how the dogs got out on the day of the attack on the applicant or on the other occasions they were found at large, the most likely explanations are that Mr Berg or another person let the dogs out or that the dogs escaped when the gate was opened. [The evidence of Ms Gladman indicated the larger dog could jump the fence, but this does not

account for both dogs getting out.] Whatever the explanation, however, their getting out was a direct consequence of the failure on the part of Mr Berg to keep the dogs securely confined.

- (6) Mr Berg knew the larger dog had bitten a person in the front yard on a previous occasion.
- (7) The dogs had been trained by Mr Berg to be aggressive and to attack other persons. I make this finding having regard to Ms Gladman's evidence of her observations of Mr Berg's treatment and handling of the dogs and Mr Berg's statement in his affidavit that he had trained the dogs to protect him and his property and to allow anyone to enter the yard of his property but not to let them out, especially if they were strangers.

Mr Albert for the respondent referred the Tribunal to R v Newman [1948] VLR 61 where Barry J said at p.67:-

"... a man is not liable in a criminal court if his conduct was merely negligent. It must be culpably negligent, ie, it must be negligence of such a kind that it shocks the conscience or causes a tribunal to think that this goes beyond the mere matter of compensation as between the person concerned, the person who does the injury and the person who receives it, and requires some punishment at the hands of the criminal law."

Mr Albert argued that if Mr Berg was negligent, the negligence was not of a kind that shocked the conscience or went beyond a mere matter of compensation and deserved punishment by the criminal law. In support of this contention he argued that the community had not felt it necessary to impose statutory requirements of dog owners for the erection of specific gates or fences to contain their dogs.

The *Domestic (Feral and Nuisance) Animals Act* 1994, however, recognises the need to promote responsible ownership of dogs (and cats) by providing for a scheme intended, amongst other things, to protect the community from nuisance dogs. For example, provision is made in the Act for the registration of dangerous dogs and conditions may be imposed by a municipal council on the registration of such dogs (see Division 3 of the Act). Division 4 provides that an owner is guilty of an offence if dogs are found at large outside the premises of the owner or are not securely confined to the owner's premises. Section 28 provides that it is an offence for a person to set on or urge a dog to attack, bite, worry or chase any person or animal except when hunting in accordance with the provisions of the *Prevention of Cruelty to Animals Act* 1986. Section 34 sets out the circumstances under which a Council may declare a dog to be dangerous. Those circumstances include where a dog has caused serious injury to a person or if the dog has been trained to attack people or animals for the purpose of guarding either persons or property or is kept as a guard dog for the purposes of guarding non-residential premises. Section 38 provides for a dangerous dog on an owner's premises to be kept indoors or in an enclosure which is child proof, constructed so that the dog cannot escape from it and complies with the regulations made under the Act.

Whilst the substantial provisions of the *Domestic (Feral and Nuisance) Animals Act* did not come into force until 9 April 1996, the Act was assented to on 29 November 1994 after considerable debate within the community and Parliament. It is apparent from the parliamentary debates recorded in *Hansard* on 13 October 1994 that there was strong demand from the community for the legislation, and I think there is little doubt that the legislation reflects in part the concern of the community that members of the community should be protected from dangerous dogs. In my view, Mr Berg's behaviour in the circumstances which I have outlined is of such a kind that shocks the conscience and goes beyond a matter of mere compensation as between the applicant and Mr Berg and I feel satisfied in this view by the provisions of this legislation.

Mr Albert argued further that it had not been established that there was a likelihood that the dogs would attack someone outside the property. I find this contention to be untenable, given Mr Berg's admission in his affidavit that he had trained the dogs to protect him and his property and not to let anyone out of the yard of his property and Ms Gladman's evidence as to his treatment of the dogs. In such circumstances it cannot be assumed that the dogs would have the ability to discriminate between attacking a person who entered the front yard and attacking a person whose path the dogs crossed when they were at large. In any event, given the evidence before the Tribunal as to Mr Berg's handling and treatment of the dogs, I have reservations as to whether he was concerned to train the dogs to restrict their aggression to those persons unfortunate enough to enter the property without Mr Berg's protection.

In view of the foregoing, I find that the applicant was the victim of a criminal act for the purposes of Section 20(2)(a) of the *Criminal Injuries Compensation Act* in that I am satisfied, on the balance of probabilities, that Mr Berg has committed a criminal act by virtue of Section 24 of the *Crimes Act*.

I turn now to the question of compensation. The applicant was subjected to a particularly frightening attack. In his evidence before the Tribunal he impressed me as a person not prone to exaggeration or overstatement, who has been profoundly affected by the incident. He has recovered from the physical injuries sustained as a result of the attack, which included extensive bruising and multiple abrasions to his legs, although he has a scar above his right ear. His psychological injuries however have been longer lasting. Dr Gibney diagnosed the applicant as suffering a post traumatic stress disorder as a result of the incident. He did not indicate the nature of its severity, but the material before the Tribunal indicates the applicant's symptoms are improving and will improve further with the passage of time. Overall, I think that an appropriate award of compensation under the *Criminal Injuries Compensation Act* is \$4,000.

There remains the question of costs. It is clear from the reasons for decision of the Crimes Compensation Tribunal that the learned Magistrate did not have the advantage of hearing evidence from Ms Gladman or Ms Reeves at the hearing before him and Mr Berg was not notified of the proceedings. On the material before him, he had no alternative, in my view, but to refuse the application for compensation. In those circumstances the question arises as to whether the applicant should be granted his costs of the appeal before this Tribunal. Having regard to the age of the applicant, the extensive steps taken by his legal advisers to locate Mr Berg and the beneficial nature of the legislation, I consider it appropriate that the applicant should be allowed his disbursements and two thirds of his costs of this appeal and I so order.

CERTIFICATE

I certify that this and the preceding 17 pages are a true and correct copy of the decision of Ms Jacqueline Preuss, Deputy President.



REGISTRAR

APPEARANCES

FOR THE APPLICANT : Mr Hutchinson of Counsel, instructed by Messrs
Capell Burke

FOR THE RESPONDENT : Mr A. Albert of Counsel, instructed by
Victorian Government Solicitor

DATE OF HEARING : 20th November 1996 and
5th December 1996

WRITTEN SUBMISSIONS : 5th February 1997

LEGISLATION CITED

Crimes Act 1958

Section 15
Section 17
Section 18
Section 23
Section 24

Criminal Injuries Compensation Act 1983

Section 3
Section 20(2)(a)

Dog Act

Section 4(2)
Section 22(1)

Domestic (Feral and Nuisance) Animals Act 1994

Division 3
Division 4
Section 28
Section 34
Section 38

CASES CITED

Filmer v Barclay [1994] 2 VR 269 at 276

R v Holzer [1986] VR 481

R v Nuri [1990] VR 641 at 643

Redmond v Crimes Compensation Tribunal (unreported) 18/12/1996

R v Newman [1948] VLR 61 at 67

R v Lamb [1967] 2 QB 981 at 990

R v Shields [1981] V.R. 717