

Poetry, Law, and the News: Re-reading the Australian Constitution

Astrid Lorange

... regimes of race do not figure as *fait accomplis*, as transcending history, but as ever-incomplete projects whereby colonisers repetitively seek to impose and maintain White supremacy.

(Patrick Wolfe, *Traces of History*)

If people are put to death by a verdict and not by a poem, it is not because the law is not a fiction.

(Barbara Johnson, 'Mallarmé and Austin', *The Critical Distance: Essays in the Contemporary Rhetoric of Reading*)

THIS PAPER SITS WITHIN A LARGER PROJECT READING CONTEMPORARY POETRY THAT takes legal texts and histories as source material. My interest is in poetry that engages with the law in order to render legal concepts readable in new ways: readable, for example, as poems that reveal the poetics of law-making and enforcing; and readable as alternative or 'counter-archival' (Motha and van Rijswijk) accounts of the legal histories that underscore state power and sovereignty. Since I am a scholar of poetry and not the law, my interest is in how poetry can catalyse critical, interdisciplinary inquiry into discursive practices outside the literary, as well as advance and challenge literary studies through the invocation of an expanded field of language and meaning—that is, through the

invocation of ‘poetics’ as both concept and method. In this sense, my project has two related questions or aims, the first of which is rather pragmatic and the second decidedly more abstract: how can poetry offer a model for reading that can be mobilised elsewhere in order to study the performativity, contingency, and ambiguity of language in places where we might ordinarily (and erroneously) imagine discourse to be more fixed; *and*, how can a reading of the poetics of legal texts and histories contribute to what Nicole M. Rizzuto calls ‘insurgent testimony’, and Divya Victor calls ‘appropriative witnessing’—textual forms that seek to intervene in and de-form dominant modes of representation that constitute imperial, colonial, and national discourses. My aim is to take seriously the idea that both law and history are predicated on unstable and anxious archives (Stoler) that are open to new readings and critical reconfigurations—and, to take seriously the idea that poetry plays a vital role in such re-readings.

The focus of this essay is Amelia Dale’s book-length poem-project *Constitution*, which can be read alongside other contemporary works that intervene in legal texts and histories: for example, M. NourbeSe Philip’s *Zong!*, Layli Long Soldier’s ‘Whereas’, and Carlos Soto-Román’s *Chile Project: [Re-Classified]*. These three works avoid re-staging or narrativising the texts and histories they draw on—instead, transforming and deforming the source materials so as to explore the fabrications, fantasies, absences, silences, omissions, errors and violences that constitute legal and colonial archives. Such works critique the idea of the document as a truth-bearing artefact and emphasise instead the fact that the documents of history are often lost, missing, mythical, forged, or erased.

In Philip’s *Zong!* the historical source material that serves as the foundation of the book is the text of the legal decision *Gregson vs Gilbert*, the only surviving document of a court case regarding a maritime insurance claim following the murder of 133 slaves on the ship *Zong* during its transatlantic journey in 1781. Philip uses the case document to produce an expanded, polyglot dictionary from which the book-length poem is composed and through which the legal language is both transformed and obscured. In the title poem from Long Soldier’s collection *Whereas*, the source material is the Native American Apology Resolution that President Obama signed on 19 December 2009 as part of a defense appropriations spending bill. The Resolution—which includes a disclaimer to the effect that it cannot authorise or settle legal claims—was not announced publicly, nor was an apology actually issued in the language of the Resolution (which calls for an acknowledgement of maltreatment, not a recognition of responsibility) nor towards anyone (the Resolution is not addressed to First Nations people). An Indian Law Resource Center report (Capriccioso) asks whether or not an apology can be said to have been made when it has no speech act, no address, and no public. In the absence of the ‘actual’ apology, Long Soldier reconfigures the technical syntax of a legal contract to compose a poem that responds to, challenges, and

overwhelms the evasive, elusive, and equivocal language of governance. In Román's project, de-classified documents pertaining to the CIA's involvement in Chile's 1973 coup d'état are re-classified, that is, blacked out save for a couple of recurring words ('CHILE', 'PINOCHET', 'CONDOR', 'MURDER', 'DEATH') and some textual metadata. Román's re-classification refuses a reading of the documents as mere historical records—in other words, it refuses a reading of the de-classified information in its now-accessible, already historicised, archival form. Such a reading is clearly available elsewhere (for example, on the NSA website or archive.org), but in the space of the poem the refusal is loud: Román chooses to resist the bureaucratisation—the banalisation—of the CIA's operations, instead rendering the records a highly abstracted, mostly silent, visual plane. In this complex transformation, the document is no longer a belated piece of evidence that somehow both reveals and justifies/neutralises the illegality of the State, but instead becomes the space for an anti-spectacular lament.

And so, in the case of *Zong!* the source material is a single document utterly incapable of registering the terror and complexity of the historical event it indexes; in the case of 'Whereas', the source material is a signed Resolution missing its central speech act; and in the case of the *Chile Project*, the source material is a publicly available archive of documents that have been officially processed as 'history'. In all three cases, the poems work both from and against their source materials, showing how law and history emerge from, and consolidate, troubled textual archives, and, consequently, how such archives might be read anew. To this group I'd like to add *Constitution*.

Amelia Dale's *Constitution*, published by small press Inken Publish in 2017, takes the Australian Constitution as a point of departure. Gutted of its original content—leaving only the barest metadata (the document's length and format)—this new Constitution comprises language harvested and edited together non-chronologically from transcripts of Malcolm Turnbull speaking live on the ABC: speaking both before and after becoming the Prime Minister, and speaking to a number of different addressees ('Leigh' [Sales], 'Sarah' [Ferguson], 'Kerry' [O'Brien] and 'Barrie' [Cassidy]). Dale's treatment of the Constitution—'vandalism' as she calls it (quoted in Messenger)—forces a re-reading of the Australian Constitution, not simply as a historical document or legal relic but as a live, living text. *Constitution* makes the Constitution a poem by rendering it unrecognisable as a legal document and by replacing the official language of the nation with the unofficial language of its governance. In becoming a poem, the Australian Constitution is both obscured and made utterly explicit: reading the Constitution after reading *Constitution* does not reveal the distance between the document and its expression in contemporary Australian politics, but the continuity between Australia's foundational claims to sovereignty and its expression in the speaking body of Malcolm Turnbull. We can read every half- or

abandoned sentence, every paradox and back-pedal, every euphemism and mixed metaphor as the repressed remainders of settler sovereignty and its insistent performance of naturalness. Dale's vandalism remediates the structure of the Australian Constitution at the same time that it remediates the live speech of Malcolm Turnbull. In doing so, she emphasises the (white, male) settler who is the subject and agent of the Constitution—a subject who is otherwise abstracted by the formal and legal language of sovereignty.

The Australian Constitution

As George Williams has written, the Australian Constitution was not composed as a founding text for the citizens of a newly federated state, but was instead a document that set out commercial and trade agreements between the colonies in the act of their coming together to form a Commonwealth. 'Consequently', Williams concludes, 'the Constitution says more about the marriage of the colonies and the powers of their progeny, the Commonwealth, than it does about the relationship between Australians and their government. It does not mention the concept of citizenship, only "the people"' (Williams 5). Despite this lack of a coherent concept of citizenship, the Constitution both sets out, and sets the conditions for, racially discriminatory laws that are the literal foundations of the nation. These include Section 51 (xxvi) which refers to the Legislative powers of the parliament and which originally stipulated that 'The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to ... the people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws' ('Australia's Constitution' 34) , and which, following the 1967 Referendum in which citizenship was conferred to Indigenous people, removed only the clause referring to 'the aboriginal race'. Indigenous people had been excluded initially because they were not considered to be part of 'the people' of the Commonwealth of Australia but wards of the individual states. Their removal from Section 51 (xxvi) raises a number of important questions about the Constitution in its current form: first, and obviously, what the so-called 'races power' means and why it still exists; and, what relation Indigenous people have to the races power now that they are not directly excluded from it. At present, the Constitution has yet to see the removal of race-based terms or the addition of any form of recognition of Indigenous history, heritage, or rights.

This issue, of course, has been highly visible recently, with the fifty-year anniversary of the Referendum in 2017 seeing the meeting of more than 250 Indigenous leaders for a constitutional convention that resolved, in the *Uluru Statement from the Heart*, to call for the establishment of a First Nations Voice in the Constitution and a commission to oversee processes of 'agreement-making' and 'truth-telling' between governments and Indigenous people (McKay 1). In that

same year, the Turnbull-led Federal Government rejected the two main proposals of the Uluru Statement, arguing that constitutional change was only possible by way of referendum and that any dedicated representative of First Nations people involved in government decision-making would effectively be a ‘Third Chamber’ of Parliament. The rejection of the Statement, writes Megan Davis, ‘reveals an incurable contempt for the authority and legitimacy of Aboriginal and Torres Strait Islander peoples as the first peoples of this nation’. The justification for rejection—that only ‘the Australian people’ can change the Constitution and that greater Indigenous representation in processes of governance might threaten the functions and operations of Parliament—serves to reaffirm both the anxiety and violence of settler sovereignty: the Constitution is held up as that which clearly demarcates ‘the Australian people’ as distinct from and at odds with Indigenous peoples; and the call to recognise Indigenous histories, presents and futures is perceived as a threat to the rule of law and to the narrative of the nation. This threat is a threat to sovereignty itself: as Patrick Wolfe writes, ‘so far as conquest remains incomplete, the settler state rests—or more to the point, fails to rest—on incomplete foundations. For the settler state, therefore, the struggle to neutralise Indigenous externality is a struggle for its own integrity’ (37).

In her essay on secularism, Holly Randell-Moon studies the Constitution as the foundational text of Australian sovereignty. She writes that Australia’s ‘nominal status as liberal and secular does not signal a break from its non-secular origins in the racial, religious and cultural precepts of British colonial law. Rather, the political and legal operation of secularism works to recast the dominant racial, religious and cultural values at the state’s formation as a neutral component of Australia’s public and universal law’ (355). One of the features of this putative secularity is the idea that the law protects the freedom of its subjects rather than determining their rights: ‘Most political rights and freedoms in the Australian Constitution are inferred from the Commonwealth’s power not to make laws in specific areas of civil life. Freedoms found by the High Court are not positive freedoms in the sense that they are a right *to* something. Rather, freedoms are primarily negative in that they derive from the constitutional restrictions placed on the state *not* intervening in certain areas of civil life’ (359). Taking up Aileen Moreton-Robinson’s notion of ‘the possessive logics of patriarchal white sovereignty’, Randell-Moon argues that the self-styled secularism of the Australian state functions to naturalise and neutralise the religious and racial aspects of the settler-colonial project (that is, the Christian principles that encouraged and justified invasion) and the subsequent adoption of Judeo-Christian values and morals as the dominant cultural code (360). This effort is, in short, to exclude absolutely ‘Indigenous sovereignty as a competing authority’, making Australian law, in every sense imaginable, ‘neither neutral nor universal’ (360). We can read the Constitution, as a result, as a document that consolidates the illegal claim to sovereignty through the imposition of a legal framework, ensures the freedom of

trade across the colonies, and endows lawmakers the ability to enforce white supremacy.

Justin Clemens and Dominic Pettman's essay 'Sovereignty, Sacrifice and the Sacred in Contemporary Australian Politics' focuses on the absence of citizens at the heart of Australia's national (and therefore constitutional) project:

[T]he Australian state was founded and sustained by a double negation, that is, *on neither blood nor soil*. For the only people who satisfy these criteria—the indigenous population—were precisely those excluded from belonging by the law of the land: *terra nullius* can mean nothing else. And the fact that Australia as a European colony began as a convict settlement, in which there are no citizens at all, only representatives of the Law, and a foreign, imperial Law at that (whether as administrators, military men, or prisoners), only confirms this state of affairs. An Australian 'resident'—*contra* the citizen-subjects of almost every other modern nation—therefore has never truly been defined by residency, indigeneity, nativity, or other forms of familial affiliation. This has meant that Australia has been, since its foundation, something approximating a *state-without-citizens*. (149)

As Clemens and Pettman write, in conversation with Henry Reynolds' influential historical work, Australia was built on a legal denial—that is, it was founded via the ad hoc construction of a legal framework with the refusal of Indigenous sovereignty as its founding claim (150). This foundational legal denial, the doctrine of *terra nullius*, derived from liberal notions that property is land transformed by labour—that Indigenous people did not cultivate the land in any recognisable way to the British justified colonisation and its subsequent program of dispossession and elimination. The refusal to recognise Indigenous society and culture—including the sophisticated agricultural, aquacultural, and architectural practices recently reconstructed by Bruce Pascoe in *Dark Emu*—is at the heart of constitutional law: to recognise such things would be to recognise Indigenous sovereignty and therefore reveal the fiction at the heart of Australia's sovereign claim. The absence of the citizen-subject in the Constitution, as such, is an important aspect of Australia's claim to its natural right to rule—sovereignty is asserted not through an appeal to the rights-bearing citizen but to the law itself. This law, as Moreton-Robinson argues, begins with James Cook on so-called Possession Island at the end of his voyage up the east coast of what would come to be known as Australia. Claiming the coast for the King for future use, and having determined that the land was 'unoccupied' according to the liberal metrics of cultivation, his performative act of possession involved the shooting of cannons, the planting of a flag, and the writing of a diary entry—with his crew as his only audience. Moreton-Robinson writes:

Although symbolic in nature, this performative act of sovereignty on Possession Island existed epistemologically and materially only for Cook and his crew, not for Indigenous people. It did not require the consent of the natives because Cook had already determined their willingness to forgo their sovereignty because of his perception that they did not display the kind of possessiveness that he knew and demonstrated [...] To be able to assert 'this is mine' requires a subject to internalize the idea that one has proprietary rights that are part of normative behavior, rules of interaction, and social engagement. Thus possession, which constitutes part of the ontological structure of white subjectivity, is also constituted socio-discursively. For Cook to be able to take possession of the east of Australia without the consent of the 'natives' means that he had to position Aboriginal people as will-less things in order to take their land in the name of the king. Thus Cook's white possessiveness operated ontologically and epistemologically by willing away Indigenous people's sovereignty in order to make them appear will-less. (113)

Because of Cook's 'original choice' not to gain consent from Indigenous people, Moreton-Robinson concludes, 'the legacy of white possession continues to function socio-discursively within Australian society. As a means of controlling differently racialized populations enclosed within its borders, white subjects are disciplined (although to different degrees) as citizens to invest in the nation as a white possession. As citizens of this white nation, they are contracted into, and imbued with, a sense of belonging and ownership' (122). Of course, the sense of belonging and ownership that accompanies white possession is perhaps felt most of all by the Prime Minister, whose exceptional status confers a special kind of possessiveness as an Australian. Dale's *Constitution* show how this plays out in Malcolm Turnbull's speech, in the way he speaks for and on behalf of, as and to, 'Australians'. It also shows how this sense of belonging and ownership betrays a deep uncertainty about the permanence of such speech: we read, in other words, what Stoler has referred to as the 'epistemological and political anxiety' (20) that is the affective register of the colonial archive and the performances of colonial and neocolonial governance.

Amelia Dale's Constitution

The front cover of Dale's book is navy blue matte card, with the Australian Coat of Arms and the word Constitution printed in white. The back cover is blank. The formatting of the contents, from the very first page, follow exactly the latest version of the Australian Constitution (2010), which is free to download as a PDF from the Government website and includes an introduction by an 'Australian

Government Solicitor', written in 2010. In the 'actual' Constitution, this introduction gives context to the preparation of the document in the last decades of the nineteenth century and its subsequent amendments and additions. It also gives a sense of how the document functions as both symbol and agent of sovereignty, as well as how it has led to moments of ambiguity or disagreement, for example, in the Governor General's interpretation of its terms which led to the dismissal of Gough Whitlam as Prime Minister in 1975. Following the introduction is the Constitution text, set out in numbered sections and sub-sections. Dale's version retains the formatting of the entire document, as well as the dates, section numbers and length. All of the data is replaced by Turnbull's speech. It is unclear where the jumps and joins are in Dale's editing, which means that from one fragment to another there is an indeterminate relation of space, time, and subject position, producing a Turnbull perpetually scrambling to find his syntax.

By choosing unscripted, off-guard, searching-for-the-right-words moments, Dale's editing emphasises Turnbull's speech at its most uncertain, incoherent, impatient, insecure, and angry. Concentrating on the extemporaneous, demonstrably 'live' language of a politician on-air, rather than the more scripted refrains we come to associate with an experienced public figure facing their constituency, Dale shows us a number of things: the odd poetics of the transcription of spoken language; the absurdity of political discourse as a set of arguments, counter-arguments, assertions, and denials; and the performance of governance that takes the form of an appeal to rationality, pragmatism, paternal responsibility, compromise, decision-making and common sense that also, at the same time, betrays ego, rank ambition, and, in many instances, barely concealed contempt.

That this carefully edited, arranged selection of Turnbull's live speech is structured 'as' the language of the Australian Constitution stages a critique of 'the possessive logics of patriarchal white sovereignty'. If the Constitution is ostensibly a trade agreement concerned with the protection of property and the right to possess, its central aim is the legitimation of whiteness as property (as Aileen Moreton-Robinson, reading Cheryl Harris, argues); that is, the Constitution defines property and possession in exclusively white, European terms. The preservation of whiteness as property requires constant and reiterative performances in the settler colony, and these performances are, as Moreton-Robinson has shown above, 'constituted socio-discursively'. As Dale's *Constitution* shows, Malcolm Turnbull is one in a long line of agents whose public performance as a political leader invokes the Constitution in the expression of a proprietary claim to the nation; Turnbull's speech as Opposition Leader and Prime Minister reveal the many different ways this claim can be made in the ongoing assertion of a natural right to rule and in the neutrality of law. And yet, as Dale seems to be all too aware, there is also something about Turnbull that causes this affectation of neutrality to slip in revealing moments that show, even if fleetingly, the affective

registers of white sovereignty: repression, rage, narcissism, entitlement, and so on. *Constitution* repurposes Turnbull's peripheral speech fragments into the framework of a legal document—indeed, *the* legal document of Australia. In doing so, the book shows how law functions in the context of policy and governance: not as a static list of terms or rules that represent objective facts or clear moral values, but in the everyday, embodied practices that constitute discourse and according to ever-changing ideas of national identity, anxiety, or desire. It also shows how ideology masquerades as universality, dressed up as common sense or bipartisan effort. It shows the long, unbroken vector of patriarchal white sovereignty from its earliest claims to its recent incarnation in the fatherly tone of Turnbull as he crabbily chides the national broadcaster. In short, it shows the idiom of sovereignty, that ongoing speech act.

A note on my use of 'speech act'. In using this phrase, I have two related aims: first, to refer generically to the events that are captured in the content of Dale's book, that is, the transcribed speech of Malcolm Turnbull on live television; and second, to argue that these speech events can be understood as 'performative', insofar as they perform a role—the politician speaking about, and around, politics in attempt to make politics feel accessible, public, collaborative, and chatty, while at the same time, managing to evade questions or make a conclusive point. In the case of the speech acts that *Constitution* compiles, these performances come in two forms: the offensive speech of the Leader of the Opposition and the defensive speech of the Prime Minister. In the former, the illocutionary force of the speech—its non-discursive, intentional element—is about presenting an alternative governance; in the latter, the illocutionary force is about legitimating governance. In both cases, the speech acts exert their force not only by implicit or indirect means but via statements that are almost entirely contentless. This performance of discourse that is also the absence of discourse is not just typical of a politician's speech but, importantly, it is the enactment and maintenance of the logic and power of governance. In other words, the contentless speech issues implicit directives: towards what constitutes legitimate and illegitimate desires, fears, aspirations, and so on (national sentiments); towards what matters and does not matter (national interests and national values); towards a certain vision of history and the future (narratives of nation and nation-building); and towards less tangible things—notions of what is possible and impossible, assumptions of common sense.

To backtrack a little: let us remember that in Austin's speech act theory, the term 'performative' is used initially to designate a statement that directly accomplishes an act merely by being said. Ultimately, Austin concludes that the performative is less a special kind of statement and more an element of speech acts *per se*: that is, all speech acts include, in addition to their semantic content, an 'illocutionary force'—the non-discursive element that conveys intention. Importantly, the

illocutionary force may be explicit (as in the case of his earlier ‘performative’ speech acts) or implicit. For the rest of this paper, when I refer to Turnbull’s speech acts I am referring to both the explicit and implicit statements that reproduce and maintain settler-colonial nationalism.

The transcription of speech often relies on the dash (–) to signify relations between clauses that are not quite syntactical but that bear a relation to each other, even if they are points of departure or pivots. Turnbull’s transcribed language is full of such dashes, giving the text in *Constitution* a dynamic visual idiom. Thinking of Emily Dickinson’s poetry, which uses the dash as its signal device for the composition of deceptively simple lyrics that, on further reading, proliferate networks of meaning at once indelibly linked and held at a distance, I read the poetics of Turnbull’s speech with the same kind of tuned attention one might read Dickinson: following the links and skips between phrases that are uneasily hinged by a dash, considering the multiple ways to read parataxis, and thinking about the construction of thought in a language act. Here is a passage that shows how the dash functions to yoke together a quick succession of attempts at the same sentence:

Um, ah – I don’t want to – no one, no one, least of all the Australian Government wants to. We have – we have very good relations. And our own – my own view and the Government’s view is that – you know, would be – would be better advised, frankly, to – not be and that’s why there’s been. (Dale, 2017: iv)

In the first attempt at the sentence, ‘I’ becomes the everyone implied in ‘no one’, which becomes the ‘Government’, which becomes ‘we’. Turnbull both slips between and slips up in this metonymic chain, unable to find a single subject to stand in for the Government, its constituents, its desire or perspective. The end of the second attempted sentence is both a contradiction and an error—‘to not be and that’s why there’s been’ does little to clarify what it is that is not wanted in the first non-sentence. The transcript indexes the conscious constructedness of the performance of political speech which, at the same time, is apparently unconscious of its own fictionalising and narrativising.

In a different section, the speech is formatted as per a contents page, with the language arranged vertically down the page in a numbered list. The following is just an excerpt of the section:

Part III—But Leigh	
24. Leigh, There Are	11
25. These Are Policemen	11

26. I'm Sorry, Leigh 11

(...)

CHAPTER V—IT'S NOT A

106. Well, Leigh	26
107. I Don't Know What	26
108. I'm Not Aware	26
109. It May Be	26
110. Well, Leigh	26
111. You've Raised It	26
112. And it is a Fair Point to Raise	26
113. But I Didn't See It	26
114. Well, it isn't a Subject on Everybody's Lips I Can Assure You of That	26

(3)

This section reads like a playbook or karaoke menu: angsty ballads of governmental equivocation. Here, again, the affect of the politician is the editorial focus, with Dale showing how easily the professional veneer of Turnbull's public-facing performance becomes an urgent, anxious effort to not lose the upper hand or to reveal what he is trying to obscure. These cropped appeals, formatted like titles in a list, also suggest the rhetorical readymades that Turnbull draws on to keep speaking while remaining elusive: the denial, the prevarication, the quibble, the diversion, the deflection, and so on.

Constitution is a drama in which Turnbull's ambivalence towards to the ABC is the narrative focus. The Liberal party's relationship to the ABC is famously fraught: the very notion of a national broadcaster is anathema to Liberal Party ideology and its zeal for free market enterprise, private services, and small government. At the same time, Turnbull has long enjoyed a reputation—earned or not—of being more socially and culturally progressive than the average Liberal figure, certainly in relation to his predecessor John Howard, who was known for his prevailing dowdiness and nostalgia. Turnbull's conservatism, therefore, is a newer kind, one which enjoys a younger and edgier image, and which more obviously relies on news media to stay visible and current. If Howard's battle with the ABC was primarily a cultural one—how the ABC represents Australian history and society—then Turnbull's battle is economic. He positions himself as the champion of prosperity in a new, more unpredictable and global economy, pitching the 'ordinary' worker against the ABC, where the latter comes to represent an older, no longer viable, thoroughly twentieth-century notion of a public service or public good. The ordinary worker, he constantly asserts, works for business and

therefore relies on their employer's success; the ABC can never understand this because they are not, properly speaking, a business.

The reader reads Dale's edited version of Turnbull's side of a series of interviews with different reporters who become subsumed by their shared identity as 'the ABC'. Because the reader only reads Turnbull's side, the narrative is not concerned with what is said by whom but how Turnbull negotiates his responses while maintaining both proximity to and distance from the questions, the reporter, and the broadcaster and its audience. Speaking as the Opposition Leader, Turnbull appeals to the ABC by issuing critical correctives to the Government; speaking as the Prime Minister, Turnbull chastises the ABC for asking incorrect or inappropriate questions, thereby demonstrating his leadership as inclusive of disciplining the national broadcaster. Turnbull's complex relationship to the ABC indexes the broader, networked relations between a government, its people, and the media: dynamics of public and private, citizen and elected official, Prime Minister and Opposition Leader. Throughout *Constitution*, Turnbull vacillates between petulance and defensiveness and affectations of respect and warmth towards the ABC. Turnbull's performance reads as an attempt to demonstrate good governance by speaking to a combative interlocutor who is nonetheless familiar. In Dale's hands, Turnbull's performance as the rational counterpart to a zealous ABC is satirised.

Dale's Turnbull hams up both his protestations to certain interview questions and his easy forgiveness. At times, he accuses the ABC of being inconsistent, capricious, and untimely: 'You've lost interest in innovation, have you? Aunty ABC loses interest in innovation' (xi). Elsewhere, he accuses the ABC of being symptomatic of aggressive, pushy contemporary media: 'And can I just say, I know – look, Leigh, the media craves constant news and it wants to have – it wants politicians to make decisions on the run and provide some new revelation every day' (xi). He uses the ABC's reputation as 'elite' to assert a (hardly believable) identity as an everyday man: 'Again, I often get on elite media like the ABC, I often get criticised or sent up, which I don't object to that, by the way, for catching public transport a lot' (7). When Dale's Turnbull speaks authority, he speaks as though reprimanding the media; when he speaks as a citizen, he does so to the reporter, naming them so as to emphasise the ordinary humanness of the interaction—just two people talking—and therefore emphasising his own vulnerability. Dale's Turnbull assumes a natural relation to leadership, a concept which in turn assumes a natural relation to the state. He does so by speaking continuously and repetitively—inscribing and reinscribing his proximity to the nation and to its law.

Patrick Wolfe memorably proposed that 'invasion is a structure, not an event' (33). The 'flipside' of this, as Elizabeth Strakosch writes, 'is that [settler] sovereignty is a constant performance claiming to be an essence' (20). *Constitution* carefully

documents Turnbull's participation in the performance of Australian settler sovereignty by reimagining the inaugural document of sovereignty itself: the Constitution legitimates Turnbull's performance at the same time that Turnbull legitimates the Constitution's sovereign claim. To read *Constitution*, therefore, is to study the naturalisation of speech into thought, the way ideas—like the idea of settler sovereignty or the neutrality of law—come to settle through repetition into fact and history. And yet, this settledness (like settlement itself) is predicated on a fiction: hence the need for the constant and reiterative performance. Poetry is a genre particularly capable of critiquing the natural, the normal, the historical and the given: a genre that shows, in its emphasis on the construction of language and through its invitation to read closely and with an eye for the minor, the way that language is engaged in the practice of making the world and therefore, also, in the potential to make the world otherwise.

Conclusion

The bigger, broader project I described at the beginning of this paper has, at its heart, the proposition that poetry offers critical insight into the passage of language into meaning, speech into action, judgement into sentence, habit into fact, history into truth, law into doctrine, and so on. Poetry emphasises the temporal, material and formal dimensions of language in specific, situated contexts—in this sense, and turned to the temporality and materiality of law as a formal practice, poetry is a genre through which we might question the materialisation of juridical truth through such language practices as witnessing, confessing, denying, testifying, judging, sentencing, ruling, recording, documenting, retelling and persuading—as well as their artefactual remains.

The poems that comprise the case studies of this project facilitate this critical questioning of law by engaging what Divya Victor has called 'a poetics of appropriative witnessing'—by her account a redefinition of poetry as primarily a documentary and historiographic practice rather than an expressive, representative or imaginative practice (v). In this kind of poetry, she claims, the appropriation of public, historical and/or bureaucratic documents 'activate(s) new ways of witnessing the *act* of witnessing'(3)—in other words, in such poetics, 'appropriation is a practice through which poets engage the documents of suffering without becoming a document of suffering' (13). Instead, appropriative techniques—the remediation of the documents into poetry—are taken up in order to study the 'infrastructural elements that manage, control, and shape traumatic experience' (15): the 'legal briefs, government reports, blog comment streams, newspapers, literary texts' (13) that comprise the living archive of national history, public life and collective memory. A poetics of appropriative witnessing is attentive to how the act of witnessing becomes politicised, memorialised, and in many cases, nationalised; as well as how it is

forgotten, repressed, and disavowed. I read Victor's idea of poetry as capable of activating new ways of *witnessing the act of witnessing* as referring to modes of reading and listening to history differently—with poetry as one way of figuring how history impresses itself on the present. In this sense, *Constitution* might allow us to read more carefully the awful, nightmarish story of how a free trade agreement became a document of sovereign law that underscores every speech act uttered in the name of a settler nation still incapable of acknowledging its violent history.

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ASTRID LORANGE is a writer, editor and artist from Sydney. She lectures in writing and theory at UNSW Art and Design. She is one have of the critical art collective Snack Syndicate. Current projects include *Endless Study, Infinite Debt*, an ongoing interdisciplinary effort at knowledge production in times of extended crisis, and *Labour and Other Poems*, a poetry manuscript.

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