

2004-2005

THE
COMMONWEALTH
LAW REPORTS

CASES DETERMINED
IN THE
HIGH COURT OF AUSTRALIA

EDITOR
J D MERRALLS, AM, QC

VOLUME 220

LAWBOOK CO.

2006

REPORTERS

D J BATT
M Y BEARMAN
G S CLARKE, SC
P D CRUTCHFIELD
L G DE FERRARI
S P DONAGHUE
C J HORAN
S G E MCLEISH
M K MOSHINSKY
J E RICHARDS
P T VOUT
P G WILLIS

Barristers

PRODUCTION SUPERVISOR

CAROLYN MAY

Published in Sydney by
Lawbook Co.
100 Harris Street, Pyrmont, NSW
160 William Street, Melbourne, Vic
239 George Street, Brisbane, Queensland
77 St George's Terrace, Perth, WA

ISSN 0069-7133

THOMSON
—★—™
LAWBOOK CO.

© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

Typeset by Lawbook Co., Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW

JUSTICES OF THE HIGH COURT OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

THE HONOURABLE ANTHONY MURRAY GLEESON, AC,
CHIEF JUSTICE

THE HONOURABLE MICHAEL HUDSON MCHUGH, AC

THE HONOURABLE WILLIAM MONTAGUE CHARLES
GUMMOW, AC

THE HONOURABLE MICHAEL DONALD KIRBY, AC, CMG

THE HONOURABLE KENNETH MADISON HAYNE, AC

THE HONOURABLE IAN DAVID FRANCIS CALLINAN, AC

THE HONOURABLE JOHN DYSON HEYDON, AC

ATTORNEY-GENERAL

THE HONOURABLE PHILIP MAXWELL RUDDOCK, MP

MEMORANDUM

2005

June 25

- Death of THE RIGHT HONOURABLE SIR HARRY TALBOT GIBBS, GCMG, AC, KBE, who retired as Chief Justice of the High Court of Australia on 5 February 1987.

THE LATE SIR HARRY GIBBS

On 3 August 2005 at a ceremonial sitting of the Full High Court at Canberra, GLEESON CJ said:

The purpose of this occasion is to mark the death, on 25 June 2005, of the Right Honourable SIR HARRY GIBBS, the eighth Chief Justice of this Court.

Joining us on the Bench today are Sir Anthony Mason, who succeeded SIR HARRY GIBBS as Chief Justice, Sir William Deane, who served as a Justice of the Court with SIR HARRY, and Chief Justice Higgins of the Supreme Court of the Australian Capital Territory. Sir Gerard Brennan, who followed Sir Anthony Mason as Chief Justice, is unable to be with us today, owing to recent surgery, but desires to be associated with our tributes. Also present at this morning's proceedings are members of SIR HARRY's family, Lady Deane, Justice Williams of the Supreme Court of Queensland, who is a former Associate of SIR HARRY GIBBS, Justices Crispin and Connolly and Master Harper of the Supreme Court of the Australian Capital Territory, the Solicitor-General for the Commonwealth, the Solicitors-General of Tasmania and South Australia, the representative of the Solicitor-General of Queensland, the President of the Law Council of Australia, the representative of the President of the Australian Bar Association, Mr David Jackson QC, who is also a former Associate of SIR HARRY GIBBS, representing the President of the New South Wales Bar Association, the Chairman of the Victorian Bar, the representatives of the Presidents of the Queensland, South Australian, Western Australian and Australian Capital Territory Bars, the President-elect of the Law Society of New South Wales, Mr Brazil, former Secretary of the Commonwealth Attorney-General's Department, and senior members of the legal profession.

HARRY TALBOT GIBBS was born in 1917, and spent his childhood in Ipswich in Queensland. He studied Arts and Law at Queensland University where he met his future wife, Muriel, when they were both law students. He graduated in 1939 with first class honours in Law, and became a member of the Queensland Bar, but his professional career was interrupted by the Second World War. He enlisted in the Army, and gave distinguished war service, principally in New Guinea.

Between 1946 and 1961 he practised, with outstanding success, at the Bar in Queensland. He took silk in 1957, and achieved professional eminence of the highest order. In addition, he lectured at Queensland University Law School from 1948 until 1959.

In 1961, at the age of forty-four, he was appointed to the Supreme Court of Queensland. He was the first graduate of the Queensland

University Law School to be so appointed. On the occasion of his swearing-in he was described by the State Solicitor-General as “one of the most outstanding counsel and in particular one of the most eminent lawyers of his generation”. He served on the Queensland Supreme Court, with great distinction, until 1967 when he left to join the federal judiciary. That change may have been related to a proposal for the creation of a new Commonwealth superior court, but the proposal was not carried forward at that time.

Between 1967 and 1970, he served as a judge of the Federal Court of Bankruptcy and as a member of the Supreme Court of the Australian Capital Territory. In August 1970, he was appointed a Justice of this Court, and in 1981 he was appointed Chief Justice. In 1970, members of this Court were appointed for life. By a constitutional amendment in 1977, a compulsory retiring age of seventy was introduced. Because SIR HARRY’s appointment as Chief Justice was to a new office, he became subject to that age limit. I do not intend to suggest that, if there had been no constitutional amendment, he would necessarily have stayed on until the age of eighty-eight, but he was an active and vigorous man for many years after his enforced retirement in 1987. Whether he possessed the virtue of resignation was never put to the test.

SIR HARRY was appointed a Privy Councillor in 1972. He was the last Chief Justice of Australia to hold that office. He sat on the Judicial Committee of the Privy Council on a number of occasions. One of the changes that occurred during his seventeen years on the Court was the abolition, by a process of legislative steps culminating with the Australia Acts of 1986, of appeals to the Privy Council from federal and State courts. The final outcome was that this Court became the court of last resort in all Australian civil and criminal cases. The process, however, was drawn-out, with rather untidy jurisprudential consequences. The lengthy period of transition placed Australian judges offered an opportunity to sit on the Privy Council in an awkward position. A proposal that Sir Anthony Mason be appointed a Privy Councillor was declined, and with that Australian participation in the work of the Judicial Committee of the Privy Council came to an end.

Another change that occurred while SIR HARRY was on the Court, but before he became Chief Justice, was the construction of the building in which we now sit, and the establishment of the Court’s permanent headquarters in the seat of government in the nation’s capital. The building was completed in 1980. Until then, for the whole of its history since 1903, the Court had been peripatetic, sitting in all States, but mainly in Melbourne and Sydney. The move to Canberra was one of the achievements of Sir Garfield Barwick, but it was not without its problems. It gave rise to some issues upon which the plans of Chief Justice Barwick were not entirely in accordance with the wishes of the other Justices. It fell to SIR HARRY, as the senior of those other Justices,

to deal, with tact and diplomacy, with those issues. We rightly pay tribute to Sir Garfield Barwick for the initiative and skill he displayed in this building project, but we should acknowledge also the facilitating work of SIR HARRY GIBBS. In the week of his death, I wrote him a letter inviting him to participate in an oral history project which is currently being developed. It is a pity that we do not have a detailed record of the events involved in the Court's move to Canberra from his perspective.

During his term as Chief Justice, between 1981 and 1987, SIR HARRY's diplomatic skills were tested on several occasions, by events affecting the Court. On a social occasion with the current members of the Court, SIR HARRY told us that the capacity of the Justices to manage and overcome the difficulties that arose was, in his opinion, largely the consequence of the civility with which all members of the Court conducted their mutual relations. Unfailing civility was one of SIR HARRY's most notable personal and professional characteristics. It is not a quality that attracts attention, or excited applause, and we tend to value it most when it is absent. This Court benefited greatly from SIR HARRY's courtesy, tact and manifest decency in his dealings with lawyers, litigants, the executive government, and his colleagues.

Over a period of sixteen years, as Justice and Chief Justice, SIR HARRY GIBBS brought to the work of the Court, and the resolution of civil and criminal cases, in all branches of the law, a powerful intellect, a deep understanding of legal principle, wide practical experience, and a capacity for strong and clear expression of his opinions. His contribution to the jurisprudence of the Court is for history to assess. A chapter in a work on "Queensland Judges on the High Court", published by the Supreme Court of Queensland Library on the occasion of the Centenary of the Court in 2003, contains a review of many of his notable decisions. During his time on the Court, there was a significant change in the nature of its work because of the introduction of a requirement for special leave to appeal in civil appeals. In consequence, a much smaller proportion of cases could be decided by the application of settled principles to the facts. A greater proportion of work involved cases where novel issues arose for decision. The practices of sitting only three Justices to hear some appeals and giving *ex tempore* judgments disappeared. Furthermore, dealing with special leave applications became an important part of the work of the Justices; a trend that has continued to develop since his departure. In the Court's calendar for this year, approximately one sitting day in four is devoted to hearing oral argument in special leave applications and, in addition, we now deal with many applications without hearing oral argument. The number of special leave applications filed during the year ended 30 June 1995 was 334. The corresponding number for the year ended 30 June 2005 was 876.

In the Court's constitutional work, SIR HARRY sat at a time when many great issues arose, and when governments were ready to explore the outer limits of federal power. His inclination, as a federalist, was unsympathetic towards some of that exploration. His opinions on the federal balance were clear and consistent.

Sir Gerard Brennan wrote to me:

“I greatly regret my inability to attend and join in the tribute to the late Chief Justice. I had the benefit of his abilities as lecturer, as colleague and leader at the Bar, as a Judge of the Supreme Court and Justice of the High Court before I joined the Court on the day when he assumed the office of Chief Justice. The quality of his judgments, his efficient industry and his strength of character gave leadership to the Court during some difficult times. It was a privilege to have been a member of that Court.”

SIR HARRY is survived by his widow, Lady Gibbs, their four children, and seven grandchildren. To them, we extend our deepest sympathy. The Court will adjourn.

**The mode of citation of this volume of
the Commonwealth Law Reports will be as follows:
220 CLR**

**TABLE OF CASES REPORTED
IN THIS VOLUME**

Aird, Re; Ex p Alpert	308
Alpert, Ex p; Re Aird	308
Australian Electoral Commission; Mulholland v	181
Australian Securities and Investments Commission; Rich v	129
Coleman v Power	1
Heaven's Door Pty Ltd; Hillpalm Pty Ltd v	472
Hillpalm Pty Ltd v Heaven's Door Pty Ltd	472
Kuligowski v Metrobus	363
Linter Textiles Australia Ltd (In liq); Taxation, Federal Commissioner of v	592
Metrobus; Kuligowski v	363
Mulholland v Australian Electoral Commission	181
Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
Power; Coleman v	1
Rich v Australian Securities and Investments Commission	129
State Revenue (Vict), Commissioner of; Permanent Trustee Australia Ltd v	388
Swain v Waverley Municipal Council	517
Taxation, Federal Commissioner of v Linter Textiles Australia Ltd (In liq)	592
Waverley Municipal Council; Swain v	517

TABLE OF CASES JUDICIALLY CONSIDERED IN CASES REPORTED IN THIS VOLUME

<i>Ainslie v Ainslie</i> (1927) 39 CLR 381	
Referred to. Kuligowski v Metrobus	363
<i>Allders International Pty Ltd v Commissioner of State Revenue (Vict)</i> (1996) 186 CLR 630	
Applied. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
<i>Australian Securities Commission v Kippe</i> (1996) 67 FCR 499	
Overruled. Rich v Australian Securities and Investments Commission	129
<i>Ayerst v C & K (Construction) Ltd</i> [1976] AC 167	
Not followed. Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
<i>Breskvar v Wall</i> (1971) 126 CLR 376	
Applied. Hillpalm Pty Ltd v Heaven's Door Pty Ltd	472
<i>Buchanan v Commonwealth</i> (1913) 16 CLR 315	
Distinguished. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
<i>Calgary and Edmonton Land Co Ltd, In re</i> [1975] 1 WLR 355 at 359; [1975] 1 All ER 1046 at 1050	
Considered. Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
<i>Cameron v Deputy Federal Commissioner of Taxation</i> (1923) 32 CLR 68	
Considered. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
<i>Carl Zeiss Stiftung v Rayner & Keeler Ltd [No 2]</i> [1967] 1 AC 853	
Referred to. Kuligowski v Metrobus	363
<i>Clay v Clay</i> (2001) 202 CLR 410 at 430-431	
Considered. Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
<i>Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission</i> (2002) 213 CLR 543	
Applied. Rich v Australian Securities and Investments Commission	129
<i>De Gioia v Darling Island Stevedoring & Lighterage Co Ltd</i> (1941) 42 SR (NSW) 1	
Considered. Swain v Waverley Municipal Council	517
<i>Dymond, Re</i> (1959) 101 CLR 11	
Considered. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
<i>Elliott v Commonwealth</i> (1936) 54 CLR 657	
Considered. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388

<i>Franklin's Selfserve Pty Ltd v Federal Commissioner of Taxation</i> (1970) 125 CLR 52 at 69-70, 72 Applied. Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
<i>Hillpalm Pty Ltd v Heaven's Door Pty Ltd</i> (2002) 55 NSWLR 446 Reversed. Hillpalm Pty Ltd v Heaven's Door Pty Ltd	472
<i>Hocking v Bell</i> (1947) 75 CLR 125 Considered. Swain v Waverley Municipal Council	517
<i>Kolotex Hosiery (Australia) Pty Ltd v Federal Commissioner of Taxation</i> (1973) 130 CLR 64 Distinguished. Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
<i>Kuligowski v Metrobus</i> (2002) 26 WAR 137 Reversed. Kuligowski v Metrobus	363
<i>Lange v Australian Broadcasting Corporation</i> (1997) 189 CLR 520 Considered. Coleman v Power	1
<i>Moore v Commonwealth</i> (1951) 82 CLR 547 Considered. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
<i>Mulholland v Australian Electoral Commission</i> (2003) 128 FCR 523 Affirmed. Mulholland v Australian Electoral Commission	181
<i>Naxakis v Western General Hospital</i> (1999) 197 CLR 269 Considered. Swain v Waverley Municipal Council	517
<i>Nolan, Re; Ex p Young</i> (1991) 172 CLR 460 Considered. Re Aird; Ep Alpert	308
<i>Oriental Inland Steam Co, In re; Ex p Scinde Railway Co</i> (1874) LR 9 Ch App 557 Considered. Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
<i>Osborne v Commonwealth</i> (1911) 12 CLR 321 Considered. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
<i>Police Service Board v Morris</i> (1985) 156 CLR 397 Applied. Rich v Australian Securities and Investments Commission	129
<i>Power v Coleman</i> [2002] 2 Qd R 620 Reversed in part. Coleman v Power	1
<i>R v Associated Northern Collieries</i> (1910) 11 CLR 738 Considered. Rich v Australian Securities and Investments Commission	129
<i>Ramsay v Pigram</i> (1968) 118 CLR 271 Referred to. Kuligowski v Metrobus	363
<i>Resch v Federal Commissioner of Taxation</i> (1942) 66 CLR 198 at 223 Applied. Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388

<i>Rich v Australian Securities and Investments Commission</i> (2003) 183 FLR 361; 203 ALR 671; 48 ACSR 6; 22 ACLC 286 Reversed. <i>Rich v Australian Securities and Investments Commission</i>	129
<i>Somodaj v Australian Iron and Steel Ltd</i> (1963) 109 CLR 285 Referred to. <i>Kuligowski v Metrobus</i>	363
<i>Stamp Duties (Q), Commissioner of v Livingston</i> (1964) 112 CLR 12; [1965] AC 694 Considered. <i>Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)</i>	592
<i>Stephens v Abrahams [No 2]</i> (1903) 29 VLR 229 Considered. <i>Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)</i>	388
<i>Taxation, Federal Commissioner of v Clyne</i> (1958) 100 CLR 246 Applied and considered. <i>Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)</i>	388
<i>Taxation, Federal Commissioner of v Linter Textiles Australia Ltd (In liq)</i> (2003) 129 FCR 42 Reversed. <i>Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)</i>	592
<i>Taxation, Federal Commissioner of v Sidney Williams (Holdings) Ltd</i> (1957) 100 CLR 95 Distinguished. <i>Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)</i>	592
<i>Tracey, Re; Ex p Ryan</i> (1989) 166 CLR 518 Considered. <i>Re Aird; Ex p Alpert</i>	308
<i>Tyler, Re; Ex p Foley</i> (1994) 181 CLR 18 Considered. <i>Re Aird; Ex p Alpert</i>	308
<i>W P Keighery Pty Ltd v Federal Commissioner of Taxation</i> (1957) 100 CLR 66 Distinguished. <i>Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)</i>	592
<i>Waverley Municipal Council v Swain</i> [2003] Aust Torts Rep ¶81-694 Reversed. <i>Swain v Waverley Municipal Council</i>	517
<i>Worthing v Rowell and Muston Pty Ltd</i> (1970) 123 CLR 89 Applied. <i>Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)</i>	388

STATUTES, RULES, ETC JUDICIALLY CONSIDERED

COMMONWEALTH CONSTITUTION

ss 7, 24: Mulholland v Australian Electoral Commission	181
ss 51(ii), 52(i), 53, 54, 55, 99: Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
s 51(vi): Re Aird; Ex p Alpert	308

COMMONWEALTH

Commonwealth Electoral Act 1918

Pt XI: Mulholland v Australian Electoral Commission	181
---	-----

Commonwealth Places (Mirror Taxes) Act 1998

ss 3, 6, 8, 9, Sch 1: Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
---	-----

Corporations Act 2001

ss 180(1), 206C, 206E, 1317E, 1317H, 1317L: Rich v Australian Securities and Investments Commission	129
--	-----

Defence Force Discipline Act 1982

ss 3 “defence member”, “service offence”, “territory offence”, 9, 61(1): Re Aird; Ex p Alpert	308
--	-----

Income Tax Assessment Act 1936

s 80A(1), (3): Federal Commissioner of Taxation v Linter Textiles Australia Ltd (In liq)	592
---	-----

NEW SOUTH WALES

Environmental Planning and Assessment Act 1979

ss 76A(1), 123(1): Hillpalm Pty Ltd v Heaven’s Door Pty Ltd	472
---	-----

Real Property Act 1900

s 42(1): Hillpalm Pty Ltd v Heaven’s Door Pty Ltd	472
---	-----

Supreme Court Act 1970

s 108(3): Swain v Waverley Municipal Council	517
--	-----

QUEENSLAND

Police Powers and Responsibilities Act 1997

s 35(1): Coleman v Power	1
--------------------------------	---

Vagrants, Gaming and Other Offences Act 1931

s 7(1)(d): Coleman v Power	1
----------------------------------	---

VICTORIA

Stamps Act 1958

ss 17, 17A, Third Sch, Heading VIII: Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vict)	388
--	------------

WESTERN AUSTRALIA

Workers' Compensation and Rehabilitation Act 1981

ss 18, 84ZN(1), 93D: Kuligowski v Metrobus	363
---	------------

TABLE OF CASES CITED IN THE JUDGMENTS

Note: The page numbers are those where the case is cited in each judgment in a report.

AMS v AIF (1999)	344
Abalos v Australian Postal Commission (1990)	579
Abbotto v Australian Electoral Commission (1997)	216, 217, 296, 302
Accident Compensation Tribunal, Registrar of the v Federal Commissioner of Taxation (1993)	607
Accident Towing and Advisory Committee v Combined Motor Industries Pty Ltd (1987)	94
Actors and Announcers Equity Association of Australia v Fontana Films Pty Ltd (1982)	146
Adams v Batley (1887)	144, 158
Adelaide Co of Jehovah's Witnesses Inc v Commonwealth (1943)	264, 338
Adler v Australian Securities and Investments Commission (2003)	146
Ahmad v Inner London Education Authority (1978)	96
Ainslie v Ainslie (1927)	375
Ainsworth v Criminal Justice Commission (1992)	500
Air Caledonie International v Commonwealth (1988)	412, 415
Airservices Australia v Canadian Airlines International Ltd (2000)	412
Albert v Lavin (1982)	24
Albert Life Assurance Co, In re (Delhi Bank's Case) (1871)	604, 666
Al-Kateb v Godwin (2004)	85, 92, 159, 258, 280, 334, 344, 345, 354, 355, 356
Allan v Transurban City Link Ltd (2001)	649
Allan Fitzgerald Pty Ltd (In liq), Re (1992)	668
Allders International Pty Ltd v Commissioner of State Revenue (Vict) (1996)	399, 400, 407, 421, 429, 449, 453, 454, 458, 469
Altim Pty Ltd and Companies Act 1961, Re (1968)	145
American Party of Texas v White (1974)	192, 193, 240, 241
Anderson v Kynaston (1924)	23
Andrews v Howell (1941)	318
Anglo-Moravian Hungarian Junction Railway Co, In re; Ex p Watkin (1875)	606
Annett v Brickell (1940)	38
Antill Ranger & Co Pty Ltd v Commissioner for Motor Transport (1955)	63
Ashpurton Estates Ltd, In re (1983)	613
Atkins v Virginia (2002)	346
Attorney-General (NSW) v Brewery Employees Union (NSW) (Union Label Case) (1908)	257, 326
Attorney-General (Vict) v Commonwealth (1945)	88
Attorney-General (Cth); Ex rel McKinlay v Commonwealth (1975)	188, 191, 206, 216, 235, 236, 256, 257, 260, 261, 264, 266, 273, 298, 300
Attorney-General v Guardian Newspapers Ltd [No 2] (1990)	97
Attorney-General (WA) v Marquet (2003)	92, 93, 96, 168, 257, 258, 260, 263, 280, 460
Attorney-General (NSW) v Stocks and Holdings (Constructors) Pty Ltd (1970)	454
Auburn Municipal Council v Szabo (1971)	489
Austin v Commonwealth (2003)	348, 413, 424
Australasian Memory Pty Ltd v Brien (2000)	489
Australian Agricultural Co v Federated Engine-Drivers and Firemen's Association of Australasia (1913)	113, 452

Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd (2001)	83, 111, 293
Australian Capital Television Pty Ltd v Commonwealth (1992)	32, 50, 51, 81, 122, 123, 124, 125, 191, 200, 206, 211, 215, 219, 220, 221, 225, 236, 245, 248, 256, 258, 260, 261, 262, 263, 264, 267, 276, 277, 278, 288, 296, 297, 300, 301, 302, 304, 305, 306
Australian Communication Exchange Ltd v Deputy Commissioner of Taxation (2003)	655
Australian Communist Party v Commonwealth (Communist Party Case) (1951)	252, 259, 264, 269, 293, 294, 318, 333, 338, 354, 356, 357, 462, 655
Australian Competition and Consumer Commission v Daniels Corporation International Pty Ltd (2001)	95
Australian Electoral Commission, Re; Ex p Kelly (2003)	232, 236
Australian Iron & Steel Pty Ltd v Krstevski (1973)	534, 535, 536, 539, 567
Australian National Airways Pty Ltd v Commonwealth (1945)	257
Australian Securities and Investments Commission v Forge (2002)	152
Australian Securities and Investments Commission v Hutchings (2001)	149, 152
Australian Securities and Investments Commission v Parkes (2001)	152
Australian Securities and Investments Commission v Pegasus Leveraged Options Group Pty Ltd (2002)	145, 152
Australian Securities and Investments Commission v Plymin [No 2] (2003)	152, 157
Australian Securities and Investments Commission v Rich (2003)	136, 145, 160, 161, 163, 164, 172
Australian Securities and Investments Commission v Starnex Securities Pty Ltd (2003)	152
Australian Securities and Investments Commission v Whitlam [No 2] (2002)	157
Australian Securities Commission v Donovan (1998)	145, 151, 157
Australian Securities Commission v Forem-Freeway Enterprises Pty Ltd (1999)	145, 152
Australian Securities Commission v Kippe (1996)	145, 147
Australian Securities Commission v Roussi (1999)	151, 152
Australian Tape Manufacturers Association Ltd v Commonwealth (1993)	412
Autodesk Inc v Dyason [No 2] (1993)	94
Avon Downs Pty Ltd v Federal Commissioner of Taxation (1949)	613, 616
Ayerst v C & K (Construction) Ltd (1976)	604, 609, 634, 650, 666, 667
B and B: Family Law Reform Act 1995 (1997)	95
B W Noble Ltd v Commissioners of Inland Revenue (1926)	645, 658
Baker v Canada (Minister for Citizenship and Immigration) (1999)	95
Baker v Carr (1962)	257
Bakers (P E) Pty Ltd v Yehuda (1988)	505
Ball v McIntyre (1966)	25, 26
Bank of NSW v Commonwealth (1948)	84, 335
Barker v Charley (1962)	581
Barrington v Austin (1939)	25
Behrooz v Secretary of the Department of Immigration and Multicultural and Indigenous Affairs (2004)	84, 85, 88, 92, 159, 280
Beit Sourik Village Council v Government of Israel (2006)	356
Bentley v Brudzinski (1982)	58
Bivens v Six Unknown Named Agents of Federal Bureau of Narcotics (1971)	245
Blair v Curran (1939)	386
Blankfield v Federal Commissioner of Taxation (1972)	613
Blatch v Archer (1774)	526, 534

Bolling v Sharpe (1954)	234
Bolton, Re; Ex p Beane (1987)	75, 97
Boteler v Allington (1746)	143
Breen v Williams (1994)	667
Breen v Williams (1996)	667
Breen, Ex p (1918)	38, 39, 40, 72, 108, 118
“Bremen”, The v Zapata Off-Shore Co (1972)	345
Breskvar v Wall (1971)	490, 491, 503, 505
Bressington v Commissioner for Railways (NSW) (1947)	536, 537, 582
Bridges v Directors of North London Railway Co (1874)	581
British American Tobacco Australia Ltd v Western Australia (2003)	245, 276, 452, 653
Brodie v Singleton Shire Council (2001)	568
Bropho v Western Australia (1990)	75, 174
Brown v Stott (2003)	263
Brown v West (1990)	404
Brownlee v The Queen (2001)	452
Brutus v Cozens (1973)	38, 71, 72
Buchanan v Commonwealth (1913)	405, 406, 469
Buchler v Talbot (2004)	663
Buckley v Bennell Design & Constructions Pty Ltd (1978)	521
Buckley v Valeo (1976)	234
Burdett v Abbot (1812)	341
Burdick v Takushi (1992)	247
Burton v Honan (1952)	90
Bus v Sydney County Council (1989)	564
Bush v Gore (2000)	232
Butler v Attorney-General (Vict) (1961)	505
Byrnes v The Queen (1999)	421
CIC Insurance Ltd v Bankstown Football Club Ltd (1997)	650
CPH Property Pty Ltd v Federal Commissioner of Taxation (1998)	668
CSR Ltd v Cigna Insurance Australia Ltd (1997)	611
Cachia v Isaacs (1985)	384
Cadbury-Fry-Pascall Pty Ltd v Federal Commissioner of Taxation (1944)	411
Calgary and Edmonton Land Co Ltd, In re (1975)	606
Cameron v Deputy Federal Commissioner of Taxation (1923) ..	425, 435, 436, 437, 443, 448, 463, 464
Cameron v The Queen (2002)	234, 424
Campbell v MGN Ltd (2004)	199
Cantwell v Connecticut (1940)	75
Capital Duplicators Pty Ltd v Australian Capital Territory (1992)	421
Cardile v LED Builders Pty Ltd (1999)	500
Cardot v France (1991)	350
Carlyle v Commissioner for Railways (NSW) (1954)	537, 538
Carl Zeiss Stiftung v Rayner & Keeler Ltd [No 2] (1967)	373, 375
Cassell & Co Ltd v Broome (1972)	111
Castlemaine Tooheys Ltd v South Australia (1990)	262, 302, 424
Caveat, In re a; Ex p Canowie Pastoral Co Ltd (1931)	608
Chancey v Fenhoulet (1751)	143
Chaplinsky v New Hampshire (1942)	75, 76, 99
Chappel v Hart (1998)	587
Cheatle v The Queen (1993)	261
Cheng v The Queen (2000)	326, 337, 344

Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs (1992)	27, 91, 163, 257, 461
Church Property Trustees, Diocese of Newcastle v Ebbeck (1960)	612
Clarson v Blair (1872)	70
Clay v Clay (2001)	605
Cobb & Co Ltd v Kropp (1967)	421
Coco v The Queen (1994)	75
Cofield v Waterloo Case Co Ltd (1924)	533
Cohen v California (1971)	75
Cole v Whitfield (1988)	413
Coleman v Power (2004)	245, 251, 266, 276, 293, 305, 335, 342, 452
Coleman v Sellars (2000)	115
Collins v Wilcock (1984)	59
Colonial Sugar Refining Co Ltd v Irving (1906)	434, 463
Colquhoun v Australian Iron and Steel Pty Ltd (1996)	536
Commercial Radio Coffs Harbour Ltd v Fuller (1986)	248
Commonwealth v New South Wales (1923)	51
Commonwealth v Tasmania (Tasmanian Dam Case) (1983)	88, 421, 422, 426, 460
Commonwealth v Yarmirr (2001)	167, 649
Commonwealth and Postmaster-General v Progress Advertising and Press Agency Co Pty Ltd (1910)	199
Communist Party Case (Australian Communist Party v Commonwealth) (1951)	252, 259, 264, 269, 293, 294, 318, 333, 338, 354, 356, 357, 462, 655
Connecticut Fire Insurance Co v Kavanagh (1892)	655
Conroy v Carter (1968)	445, 446, 464
Conway v The Queen (2002)	649
Cormack v Cope (1974)	409
Corporate Affairs Commission (NSW) v Yuill (1991)	95
Corporate Affairs, Commissioner for v Bracht (1989)	145
Corporate Affairs, Commissioner for v Harvey (1980)	607
Corporate Affairs (WA), Commissioner for v Ekamper (1987)	152, 153
Coulton v Holcombe (1986)	655
Craig v Boren (1976)	263
Cromwell v County of Sac (1876)	384
Crowe v Commonwealth (1935)	438, 439, 440, 443, 464
Cunliffe v Commonwealth (1994)	78, 81, 90, 97, 122, 123, 146, 219, 222, 251, 252, 262, 267, 287
Customs, Chief Executive Officer of v Labrador Liquor Wholesale Pty Ltd (2003)	145, 146, 160, 165, 168, 169, 172
Customs (NSW), Collector of v Southern Shipping Co Ltd (1962)	411
DKLR Holding Co (No 2) Pty Ltd v Commissioner of Stamp Duties (NSW) (1980)	606, 612
Da Costa v Australian Iron & Steel Pty Ltd (1978)	537
Dalgety Downs Pastoral Co Pty Ltd v Federal Commissioner of Taxation (1952)	604, 613, 628
Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission (2002)	75, 95, 97, 141, 142, 161, 167, 170, 177, 179
David Grant & Co Pty Ltd v Westpac Banking Corporation (1995)	489
David Jones (Canberra) Pty Ltd v Zapasnik (1982)	385
Davis v Bunn (1936)	582
Davis v Commonwealth (1988)	267
Dawson v Commonwealth (1946)	318
Debtor, In re a (1910)	143

de Freitas v Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing (1999)	198
De Gioia v Darling Island Stevedoring & Lighterage Co Ltd (1941)	531, 532, 533, 534, 561, 562
Derby, Mayor of the County Borough of v Derbyshire County Council (1897)	161
Devries v Australian National Railways Commission (1993)	579
Dingjan, Re; Ex p Wagner (1995)	208
Ditchburn v Australian Electoral Officer (Q) (1999)	216, 296
Dixon v Cementation Co Ltd (1960)	539
Dovuro Pty Ltd v Wilkins (2003)	654, 655
Dublin, Wicklow, and Wexford Railway Co v Slattery (1878)	581
Dymond, Re (1959)	411, 416, 418, 419
Earl of Mexborough v Whitwood Urban District Council (1897)	142, 143
East, Re; Ex p Nguyen (1998)	326
Edwards v Noble (1971)	521
Egan v Willis (1998)	263
Egri v DRG Australia Ltd (1988)	384, 385
Elfic Ltd v Macks (2003)	634
Elliott v Australian Securities and Investments Commission (2004)	155, 157
Elliott v Commonwealth (1936)	423, 424, 433, 435, 439, 440, 441, 442, 443, 446, 447, 448, 461, 464, 465
Evda Nominees Pty Ltd v Victoria (1984)	337, 452, 557
FAI General Insurance Co Ltd v Southern Cross Exploration NL (1988)	489
F Hannan Pty Ltd v Electricity Commission (NSW) [No 3] (1985)	496, 497, 502
F, Re; Ex p F (1986)	146
Fabre v Ley (1972)	266
Faderson v Bridger (1971)	254
Fairchild v Glenhaven Funeral Service Ltd (2003)	338
Farey v Burvett (1916)	318, 338
Ferrari Furniture Co Pty Ltd and the Companies Act, Re (1972)	145
Figuroa v Canada (Attorney-General) (2000)	209, 210, 212, 269
Figuroa v Canada (Attorney-General) (2003)	90, 193, 194, 212, 213, 220, 242, 243, 262, 269, 278, 279, 293, 294, 300, 301
Fitzpatrick v Sterling Housing Association Ltd (2001)	95
Fox v Percy (2003)	579
Franklin (Thomas) & Sons Ltd v Cameron (1935)	607
Franklin's Selfserve Pty Ltd v Federal Commissioner of Taxation (1970)	603, 604, 606, 608, 611, 614, 631, 650, 663, 664
Frazer v Walker (1967)	491
Frederick Inns Ltd (In liq), In re (1994)	650
Freind, Sir John, Trial of (1696)	168
Friend v Corporate Affairs Commission (1988)	145
Friends of Stradbroke Island Association Inc v Sandunes Pty Ltd (1998)	501
Garland v British Rail Engineering Ltd (1983)	27, 94
Gattellaro v Westpac Banking Corporation (2004)	653, 654
General Cleaning Contractors Ltd v Christmas (1953)	535, 538, 539
General Rolling Stock Co, In re (1872)	635
Gerhardy v Brown (1985)	112
Gerlach v Clifton Bricks Pty Ltd (2002)	581
Ghaidan v Godin-Mendoza (2004)	95
Giannarelli v Wraith (1988)	95

Gipp v The Queen (1998)	653
Giris Pty Ltd v Federal Commissioner of Taxation (1969)	616
Gold Coast Holdings Pty Ltd (In liq), Re; Australian Securities and Investments Commission v Papotto (2000)	152
Gooding, Warden v Wilson (1972)	75
Goodwin v Phillips (1908)	505
Gould v Brown (1998)	421, 454, 469
Gradidge v Grace Bros Pty Ltd (1988)	93
Graham Barclay Oysters Pty Ltd v Ryan (2002)	492
Grain Pool (WA) v Commonwealth (2000)	146, 342
Grannall v Marrickville Margarine Pty Ltd (1955)	236
Grant v Gould (1792)	341
Gray v Motor Accident Commission (1998)	172
Green v Green (1935)	385
Green v Somerville (1979)	655
Green v Weaver (1827)	146
Groves v Commonwealth (1982)	353, 361
Growden v Wiltshire (1935)	600
Gumley v Breen (1918)	72
HIH Insurance Ltd (In prov liq) and HIH Casualty and General Insurance Ltd (In prov liq), Re; Australian Securities and Investments Commission v Adler (2002)	145, 152, 155, 166
Ha v New South Wales (1997)	257, 453, 461
Hamilton v Nuroof (WA) Pty Ltd (1956)	536
Hampton Court Ltd v Crooks (1957)	530, 533, 534, 560
Hannan (F) Pty Ltd v Electricity Commission (NSW) [No 3] (1985)	496, 497, 502
Hazelton v Potter (1907)	62
Heavens Door Pty Ltd v Hillpalm Pty Ltd (2001)	478, 480, 492, 507
Herald and Weekly Times Ltd v Commonwealth (1966)	266
Hiley v Peoples Prudential Assurance Co Ltd (In liq) (1938)	662
Hillpalm Pty Ltd v Heaven's Door Pty Ltd (2002)	478, 488, 490, 492, 499, 505, 506
Hobbs v Tinling (C T) and Co Ltd (1929)	385
Hocking v Bell (1944)	531
Hocking v Bell (1945)	530, 531, 532, 561, 579, 580, 581, 582
Hocking v Bell (1947)	531, 561, 582
Hodgetts v Australian Electoral Commission (1998)	216
Holloway v McFeeters (1956)	582, 587
Honeywood v Selwin (1744)	144
Hopgood v Burns; Ex p Burns (1944)	107
House of Peace Pty Ltd v Bankstown City Council (2000)	501
Houssein v Under Secretary, Department of Industrial Relations and Technology (NSW) (1982)	177
Hoysted v Federal Commissioner of Taxation (1920)	383
Hoysted v Federal Commissioner of Taxation (1921)	383, 384, 386
Hoysted v Federal Commissioner of Taxation (1925)	383, 384
Illawarra District County Council v Wickham (1959)	328
Immigration and Ethnic Affairs, Minister for v Teoh (1995)	28, 91
Immigration and Multicultural and Indigenous Affairs, Minister for v Al Khafaji (2004)	85, 92
Immigration and Multicultural and Indigenous Affairs, Minister for v B (2004)	94, 505
Immigration and Multicultural Affairs, Minister for v Bhardwaj (2002)	102

Immigration and Multicultural Affairs, Minister for, Re; Ex p Epeabaka (2001)	93
Inglis v Fish (1961)	23
Inland Revenue Commissioners v J Bibby & Sons Ltd (1945)	645, 658
Inland Revenue Commissioners v Olive Mill Ltd (In liq) (1963)	606, 608, 634
International Tin Council, In re (1987)	610
International Transport Roth GmbH v Secretary of State for the Home Department (2003)	263
International Vending Machines Pty Ltd and the Companies Act, Re (1962)	605
J J Leonard Properties Pty Ltd v Leonard (WA) Pty Ltd (1987)	613
Jackson v Goldsmith (1950)	386
Jago v District Court (NSW) (1988)	93
James v Commonwealth (1928)	437, 438, 443, 464
James v Commonwealth (1939)	63
Jenness v Fortson (1971)	193, 241
Jewell v Parr (1853)	582
Johns v Australian Securities Commission (1993)	226
Johnston Fear & Kingham & Offset Printing Co Pty Ltd v Commonwealth (1943) ..	338
Jolley v Sutton London Borough Council (2000)	564
Jones v Davies Franklin Cycle Co Ltd (1902)	600
Jones v Dunkel (1959)	507, 580
Jones v Jones (1889)	143, 148
Joslyn v Berryman (2003)	589
Joyce v Grimshaw (2001)	95
Judd v McKeon (1926)	207, 254
Jumbunna Coal Mine NL v Victorian Coal Miners' Association (1908)	88, 91, 257, 345
K, Re (1993)	57
Kable v Director of Public Prosecutions (NSW) (1996)	343, 351
Kartinyeri v Commonwealth (1998)	93, 344, 348
Keighery (W P) Pty Ltd v Federal Commissioner of Taxation (1957)	620, 644, 646, 659
Kerr v Director of Public Prosecutions (1995)	58
Kingshott v Goodyear Tyre & Rubber Co Australia Ltd [No 2] (1987)	534
Kingston v Keprose Pty Ltd (1987)	175
Kingswell v The Queen (1985)	337, 344
Knight v F P Special Assets Ltd (1992)	500
Knowles v Scott (1891)	608
Knox v Gye (1872)	605
Kolotex Hosiery (Australia) Pty Ltd v Federal Commissioner of Taxation (1973)	644, 645, 658
Kolotex Hosiery (Australia) Pty Ltd v Federal Commissioner of Taxation (1975)	645
Koowarta v Bjelke-Petersen (1982)	94, 257
Kruger v Commonwealth (1997)	28, 94, 225, 234, 245, 277, 278, 288
Kuligowski v Metrobus (2002)	367, 374, 377, 378, 383
Lambert v Weichelt (1954)	326
Lamshed v Lake (1958)	338
Lange v Australian Broadcasting Corporation (1997)	30, 32, 34, 42, 43, 44, 45, 46, 48, 49, 50, 64, 68, 77,78, 81, 82, 86, 88, 90, 97, 109, 110, 111, 114, 118, 120, 121, 124, 125, 126, 187, 188, 191, 195, 197, 206, 212, 217, 218, 222, 224, 234, 236, 244,248, 251, 252, 259, 267, 269, 274, 276, 279, 285, 286, 300, 304, 305, 452

Langer v Commonwealth (1996)	206, 207, 208, 211, 212, 233, 238, 239, 251, 254, 256, 259, 260, 261
Latimer v AEC Ltd (1953)	560
Lawrence v Texas (2003)	346
Law Society (NSW) v Foreman (1994)	178
Leask v Commonwealth (1996)	90, 262, 267
Lendrum v Campbell (1932)	38, 39, 40, 73, 74, 77, 107, 108, 117, 118
Lenahan, Ex p (1948)	178
Leonard (J J) Properties Pty Ltd v Leonard (WA) Pty Ltd (1987)	613
Leotta v Public Transport Commission (NSW) (1976)	581
Levy v Victoria (1997) .. 31, 43, 51, 53, 82, 122, 124, 127, 200, 208, 214, 222, 223, 224, 246, 251, 252, 262, 267, 276, 290, 298, 300, 303	
Lewis v City of New Orleans (1974)	75, 76
Li Chia Hsing v Rankin (1978)	343
Liftronic Pty Ltd v Unver (2001)	582
Linter Textiles Australia Ltd (In liq) v Federal Commissioner of Taxation (2002)	598, 600, 614, 616, 617, 621, 626, 637, 643, 649, 651, 652, 661
Lipohar v The Queen (1999)	346, 358
Lippl v Haines (1989)	102
Logwon Pty Ltd v Warringah Shire Council (1993)	500
Lunt v Bramley (1959)	102
Luton v Lessels (2002)	412, 413
Luxton v Vines (1952)	582
Mabo v Queensland [No 2] (1992)	28, 92
McAusland v Federal Commissioner of Taxation (1993)	600
MacCallum v Turton (1828)	144
McClure v Australian Electoral Commission (1999)	216, 222, 224, 245, 246, 267, 268, 276, 289, 296, 304
McCormick v Federal Commissioner of Taxation (1984)	411
McCulloch v Maryland (1819)	90, 199, 266
McGinty v Western Australia (1996)	188, 206, 207, 208, 211, 214, 235, 236, 237, 238, 243, 254, 256, 257, 261, 264, 278, 296
McGovern, Ex p (1903)	70
McKenzie v Commonwealth (1984)	215, 216, 257, 260, 296, 298, 302
Macks, Re; Ex p Saint (2000)	101, 327
McLiney v Minster (1911)	58
McNair v Press Offshore Ltd (1997)	374, 377, 385
Magna Alloys & Research Pty Ltd, Re (1975)	145
Makowski v TVW Enterprises Ltd (1994)	385
Malika Holdings Pty Ltd v Stretton (2001)	410
Maloney v Commissioner for Railways (NSW) (1978)	536
Mandalong Progress Association Inc v Minister for Planning (2003)	496, 502
Marcus Clark & Co Ltd v Commonwealth (1952)	338
Marsh v Arscott (1982)	26
Martin v Martin (1988)	612
Martin v Treacher (1886)	143
Melbourne Corporation v Commonwealth (1947)	208
Melser v Police (1967)	23, 25
Metropolitan Railway Co v Jackson (1877)	582
Miller v Minister of Mines (1963)	504
Miller v TCN Channel Nine Pty Ltd (1986)	248
Miller-Mead v Minister of Housing and Local Government (1963)	501

Mineral & Chemical Traders Pty Ltd v T Tymczyszyn Pty Ltd (In liq) (1994)	634, 635, 668
Mitchell v Carter (1997)	610, 611, 634, 663
Monger, Re; Ex p Wilderness Equipment Pty Ltd (2003)	374
Moore v Commonwealth (1951)	410, 411
Moran (W R) Pty Ltd v Deputy Federal Commissioner of Taxation (NSW) (1940)	435, 444
Morgan v Commonwealth (1947)	426, 430, 448
Motor Transport, Commissioner for v Antill Ranger & Co Pty Ltd (1956)	63, 101
Muldorney v South Australia (1996)	206, 211, 212, 217, 251
Mulholland v Australian Electoral Commission (2002)	187, 201, 218, 221, 227, 250, 251, 252, 263, 275, 278, 285, 286, 287, 288, 304
Mulholland v Australian Electoral Commission (2003)	187, 201, 209, 210, 218, 221, 227, 239, 248, 249, 251, 252, 263, 275, 278, 281, 289, 290, 291, 292, 304
Mulkana Corporation NL (In liq) v Bank of New South Wales (1983)	605
Municipal Tramways Trust v Buckley (1912)	521
Mutual Pools & Staff Pty Ltd v Commonwealth (1994)	146
Mutual Pools & Staff Pty Ltd v Federal Commissioner of Taxation (1992)	412
Nagle v Rottneest Island Authority (1993)	557, 563, 564, 577, 585
Naismith v McGovern (1953)	141, 142, 168
National Parks and Wildlife Service v Stables Perisher Pty Ltd (1990)	499
Nationwide News Pty Ltd v Wills (1992)	81, 127, 211, 212, 236, 256, 267, 276
Native Title Act Case (Western Australia v Commonwealth) (1995)	409, 421
Naxakis v Western General Hospital (1999)	530, 532, 561, 580, 581, 582, 583, 587
Neill v NSW Fresh Food and Ice Pty Ltd (1963)	534, 535, 536, 547, 555, 567, 568
Nelson v John Lysaght (Australia) Ltd (1975)	555, 556, 567, 587
New Brunswick Railway Co v British and French Trust Corporation Ltd (1939)	381
Newcastle City Council v GIO General Ltd (1997)	650
Newcrest Mining (WA) Ltd v Commonwealth (1997)	348
News Ltd v South Sydney District Rugby League Football Club Ltd (2003)	162
New South Wales v Macquarie Bank Ltd (1992)	90
Nguyen v Elliott (1995)	57
Nicholas v Commissioner for Corporate Affairs (1986)	145
Nolan, Re; Ex p Young (1991)	319, 320, 326, 331, 332, 333, 337, 358
Northern Suburbs General Cemetery Reserve Trust v Commonwealth (1993)	409
Northern Territory v Mengel (1995)	338
O'Brien v Komesaroff (1982)	655
O'Callahan v Parker (1969)	321, 329, 330, 333, 342, 353, 355, 359
Oceanic Sun Line Special Shipping Co Inc v Fay (1988)	338
Oliver v Oliver (1958)	612
One.Tel Ltd (In liq), Re; Australian Securities and Investments Commission v Rich (2003)	152, 155, 166
O'Reilly v Law Society (NSW) (1988)	178
Oriental Inland Steam Co, In re; Ex p Scinde Railway Co (1874)	604, 605, 606, 607, 610, 634, 666
Orme v Crockford (1824)	143
Osborne v Commonwealth (1911)	407, 409, 410, 411, 419
Oshlack v Richmond River Council (1998)	489
Ousley v The Queen (1997)	177
Overseas Tankship (UK) Ltd v Miller Steamship Co Pty (The Wagon Mound [No 2]) (1967)	548, 557

P E Bakers Pty Ltd v Yehuda (1988)	505
PMT Partners Pty Ltd (In liq) v Australian National Parks and Wildlife Service (1995)	489
Paliflex Pty Ltd v Chief Commissioner of State Revenue (NSW) (2003) ..	399, 407, 454
Papua and New Guinea, Administration of v Daera Guba (1973)	373, 375
Paraguassu Steam Tramroad Co Black & Co's Case, In re (1872)	609, 610
Parker v Commonwealth (1965)	353, 361
Parkhurst v Lowten (1816)	143, 168
Parramatta City Council v Shell Co of Australia Ltd (1972)	501
Patterson, Re; Ex p Taylor (2001)	189, 237, 261, 326, 335, 453
Paul and Gray Ltd, In re (1932)	608, 631
Pegasus Leveraged Options Group Pty Ltd (2002)	152
Percy v Hall (1997)	61
Perkins v County Court (Vict) (2000)	102
Peters v Attorney-General (NSW) (1988)	101
Philip Morris Ltd v Commissioner of Business Franchises (Vict) (1989)	452
Phillips v Lynch (1907)	505
Pilmer v Duke Group Ltd (In liq) (2001)	667
Pitchers v Surrey County Council (1923)	341
Plaintiff S157/2002 v Commonwealth (2003)	92, 335, 345, 351, 354
Plenty v Dillon (1991)	75
Police v Christie (1962)	23
Police Service Board v Morris (1985)	136, 144, 147, 158, 178, 179
Polites v Commonwealth (1945)	91
Polyukhovich v Commonwealth (War Crimes Act Case) (1991)	317, 334, 346
Potter v Minahan (1908)	97
Power v Coleman (2002)	34, 35, 67, 83, 84, 101, 103, 104, 115, 118, 119, 120
Poyser v Commissioner for Corporate Affairs (1985)	145
Prast v Town of Cottesloe (2000)	564, 585
Pratten v Warringah Shire Council (1969)	492, 504
Precision Plastics Pty Ltd v Demir (1975)	582
Project Blue Sky Inc v Australian Broadcasting Authority (1998)	94, 174, 650
Public Prosecutions, Director of v Orum (1989)	26
Public Prosecutions, Director of v Toro-Martinez (1993)	90
Public Prosecutions, Director of, Re; Ex p Lawler (1994)	90
Puntoriero v Water Administration Ministerial Corporation (1999)	560, 579
Pyneboard Pty Ltd v Trade Practices Commission (1983)	142, 161
Quach v Marrickville Municipal Council [Nos 1 & 2] (1990)	505
Queensland v Commonwealth (1977)	112, 114, 407, 452
Queensland Electricity Commission v Commonwealth (1985)	424
Quirin, Ex p (1942)	354
R v Associated Northern Collieries (1910)	140, 141, 143, 148, 158
R v Barger (1908)	434, 435, 436, 437, 443, 444, 463, 464
R v Bernasconi (1915)	343
R (ProLife Alliance) v British Broadcasting Corporation (2004)	263
R v Carroll (2002)	349
R v Cox; Ex p Smith (1945)	333
R v Eid (1999)	101
R v Federal Court of Bankruptcy; Ex p Lowenstein (1938)	343
R v Finta (1994)	345
R v Foster; Ex p Bank of New South Wales (1948)	338
R v Foster; Ex p Rural Bank of New South Wales (1949)	318, 338

R v Génèreux (1992)	313, 342
R v Hughes (2000)	84, 335, 405, 421
R v Justices of Clifton; Ex p McGovern (1903)	70, 105
R v Kirby; Ex p Boilermakers' Society of Australia (1956)	88, 257, 335, 343, 462
R v L (1991)	334
R v Labouchere (1884)	70
R v Lord George Gordon (1781)	168
R v Munslow (1895)	69, 70
R v Oakes (1986)	198
R v Pearson; Ex p Sipka (1983)	235
R v Philipps (1805)	69
R v Phillips (1970)	407, 454
R (Daly) v Secretary of State for the Home Department (2001)	198
R (Morgan Grenfell and Co Ltd) v Special Commissioner of Income Tax (2003)	179
R v Cox; Ex p Smith (1945)	318
RAV v City of St Paul, Minnesota (1992)	75, 76
RPS v The Queen (2000)	177
Ramsay v Pigram (1968)	379, 381
Rann v Olsen (2000)	53, 124, 263
Rasul v Bush (2004)	356
Refrigerated Express Lines (A/asia) Pty Ltd v Australian Meat and Live-stock Corporation (1979)	141, 161
Reid, Re; Ex p Bienstein (2001)	263
Relford v US Disciplinary Commandant (1971)	321, 324, 333, 357
Resch v Federal Commissioner of Taxation (1942)	413
Residual Assco Group Ltd v Spalvins (2000)	84, 101, 335
Rhesa Shipping Co SA v Edmunds (1985)	385
Rich v Australian Securities and Investments Commission (2003)	136, 145, 146, 156, 158, 160, 162, 163, 164, 165, 169, 170, 172, 173
Rich v Australian Securities and Investments Commission (2004)	649
Richmond, City of v Delmo (1992)	538
Riverina Transport Pty Ltd v Victoria (1937)	101
Roberts v Bass (2002)	42, 83, 89, 244, 245, 276, 290, 293, 335, 653
Romeo v Conservation Commission (NT) (1998)	564, 577
Ronpibon Tin NL and Tongkah Compound NL v Federal Commissioner of Taxation (1949)	199
Rootes v Shelton (1967)	557
Roy Morgan Research Centre Pty Ltd v Commissioner of State Revenue (Vict) (2001)	167, 649
Ruddock v Taylor (2003)	101
Rufa Pty Ltd v Cross (1981)	514
Ryde Municipal Council v Royal Ryde Homes (1970)	501
Ryder v Wombwell (1868)	580, 582, 585
Saif Ali v Sydney Mitchell & Co (1980)	94
Sainsbury (J) Plc v O'Connor (1991)	606
Sankey Brook Coal Co Ltd v Marsh (1871)	609
Saraswati v The Queen (1991)	505
Scott v Miller [No 2] (1859)	144
Second Fringe Benefits Tax Case (State Chamber of Commerce and Industry v Commonwealth) (1987)	413
Sellers v Coleman (2001)	83, 280
Shaw v Minister for Immigration and Multicultural Affairs (2003)	261, 337, 453

Shaw Savill and Albion Co Ltd v Commissioner of Inland Revenue (NZ) (1956)	607, 608, 634, 650
“Shin Kobe Maru” (Owners of) v Empire Shipping Co Inc (1994)	489
Silbert v Director of Public Prosecutions (WA) (2004)	331, 468
Sir John Freind, Trial of (1696)	168
Smith v Broken Hill Pty Co Ltd (1957)	565
Smith v Oldham (1912)	206
Smith v Read (1737)	140, 141, 158, 163
Solorio v United States (1987)	321, 330, 332
Somodaj v Australian Iron and Steel Ltd (1963)	374, 376, 378, 379, 385
Sorby v Commonwealth (1983)	141, 142
South Australia v Tanner (1989)	90
South-Eastern Drainage Board (SA) v Savings Bank of South Australia (1939)	504
South Sydney City Council v Paliflex Pty Ltd (2003)	399
Spratt v Hermes (1965)	343
Stamp Duties (Q), Commissioner of v Livingston (1964)	606, 607
Starkey, Re (1994)	634
State Chamber of Commerce and Industry v Commonwealth (Second Fringe Benefits Tax Case) (1987)	413
State Rail Authority (NSW) v Earthline Constructions Pty Ltd (In liq) (1999)	579
Stead v State Government Insurance Commission (1986)	655
Stephens (1903)	411, 414, 416, 419
Stephens v Abrahams [No 2] (1903)	410, 411, 414, 415, 416, 419
Stephens v West Australian Newspapers Ltd (1994)	81, 197
Stevens v Head (1993)	114, 355, 452
Street v Queensland Bar Association (1989)	303, 423, 424
Strikers Management Pty Ltd, Re; Australian Securities Commission v Dimitri (1997)	152
Sue v Hill (1999)	261, 263, 342, 454
Sullivan v Moody (2001)	114
Svikart v Stewart (1994)	400, 454
Sydney City Council v Building Owners and Managers Association of Australia Ltd (1985)	500, 502
Tame v New South Wales (2002)	548
Tanning Research Laboratories Inc v O’Brien (1990)	599, 600
Tasmanian Dam Case (Commonwealth v Tasmania) (1983)	88, 421, 422, 426, 460
Tasmanian Spastics Association, Re; Australian Securities Commission v Nandan (1997)	145, 152
Taxation, Deputy Commissioner of v AGC (Advances) Ltd (1984)	668
Taxation, Federal Commissioner of v Casuarina Pty Ltd (1971)	646, 659
Taxation, Federal Commissioner of v Clyne (1958) .. 411, 412, 418, 422, 435, 444, 445, 464, 465	
Taxation, Federal Commissioner of v Linter Textiles Australia Ltd (In liq) (2003)	598, 600, 603, 618, 621, 626, 627, 629, 630, 634, 635, 638, 643, 649, 651, 653, 665
Taxation, Federal Commissioner of v Macquarie Health Corporation Ltd (1998)	635, 668
Taxation, Federal Commissioner of v Munro (1926)	408, 411, 418, 419
Taxation, Federal Commissioner of v St Hubert’s Island Pty Ltd (In liq) (1978)	634, 668
Taxation, Federal Commissioner of v Sidney Williams (Holdings) Ltd (1957)	620, 646
Taxation, Federal Commissioner of v Students World (Australia) Pty Ltd (1978)	651

Terminiello v Chicago (1949)	75, 76
Theophanous v Herald & Weekly Times Ltd (1994)	81, 196, 236, 252, 262, 459
Thomas Franklin & Sons Ltd v Cameron (1935)	607
Three Rivers District Council v Bank of England (2004)	179
Thurley v Hayes (1920)	38, 71, 116
Timmons v Twin Cities Area New Party (1997)	232, 236, 240, 241, 247
Tito v Waddell [No 2] (1977)	606, 666
Tiver Constructions Pty Ltd v Clair (1992)	385
Tobin v Murison (1845)	521
Tomlinson v Congleton Borough Council (2004)	557, 564
Toth v Quarles (1955)	342, 353
Tracey, Re; Ex p Ryan (1989)	311, 312, 313, 314, 319, 320, 326, 327, 329, 332, 333, 339, 340, 341, 342, 343, 353, 354, 358
Trade Practices Commission v Abbco Iceworks Pty Ltd (1994)	142, 143
Transphere Pty Ltd, Re (1986)	606
Travinto Nominees Pty Ltd v Vlattas (1973)	505
Tressider v Austral Stevedoring and Lighterage Co Pty Ltd (1968)	536
Trieste Investments Pty Ltd v Watson (1963)	504
Trust Co of Australia Ltd v Commissioner of State Revenue (Q) (2003) ...	168, 505, 649
Turner Corporation Ltd (In liq), Re (1995)	635
Tyler, Re; Ex p Foley (1994)	319, 321, 326, 331, 332, 333, 337, 359
Union Label Case (Attorney-General (NSW) v Brewery Employees Union (NSW)) (1908)	
	257, 326
United States v Duarte-Acero (2000)	350
United States v McRae (1867)	143
United States of America v McRae (1867)	168
United Tool & Die Makers Pty Ltd (In liq) v JV Marine Motors Pty Ltd (1992)	631
Universal Film Manufacturing Co (Australasia) Ltd v New South Wales (1927)	326
University of Wollongong v Metwally [No 2] (1985)	655
Urban Transit Authority (NSW) v Hargreaves (1987)	536
Veen v The Queen [No 2] (1988)	
	145
Veivers v Roberts; Ex p Veivers (1980)	60, 100, 101
Vickery v Municipality of Strathfield (1911)	504
Victoria v Commonwealth (1996)	55
Victoria v Commonwealth and Connor (1975)	409, 414
Victoria v Commonwealth (Payroll Tax Case) (1971)	453
Victorian WorkCover Authority v Esso Australia Ltd (2001)	649
Vidler v Newport (1905)	70
Virginia v Black (2003)	75, 76
Visy Paper Pty Ltd v Australian Competition and Consumer Commission (2003)	
	167, 650
Vozza v Tooth & Co Ltd (1964)	534, 535, 536, 555
W P Keighery Pty Ltd v Federal Commissioner of Taxation (1957) ..	
	620, 644, 646, 659
W R Moran Pty Ltd v Deputy Federal Commissioner of Taxation (NSW) (1940)	
	435, 444
Waddington v Silver Chain Nursing Association (1998)	374
Wakelin v London and South Western Railway Co (1886)	532
Wakim, Re; Ex p McNally (1999)	342, 343, 351, 454, 461, 462
Walsh and Johnson, Ex p; In re Yates (1925)	88, 97, 405
War Crimes Act Cases (Polyukhovich v Commonwealth) (1991)	317, 334, 346
Warren v Coombes (1979)	579

Water Board v Moustakas (1988)	619
Watson v Trenerry (1998)	126
Waverley Municipal Council v Swain (2003)	527, 529, 541, 544, 545, 547, 550, 551, 556, 559, 562, 563, 564, 565, 567, 568, 572, 573, 577, 578, 579, 583, 584, 585, 586, 587, 589
Weaver v Law Society (NSW) (1979)	178
Wesberry v Sanders (1964)	257
Western Australia v Commonwealth (1975)	407
Western Australia v Commonwealth (Native Title Act Case) (1995)	409, 421
Williams v Trye (1854)	146
Wilson v Minister for Aboriginal and Torres Strait Islander Affairs (1996)	343, 351
Winn v Director General of National Parks and Wildlife (2001)	489, 501
Wood Preservation Ltd v Prior (1969)	662
Woods v Multi-Sport Holdings Pty Ltd (2002)	564, 565, 577
Worthing v Rowell and Muston Pty Ltd (1970)	399, 430, 450, 453, 454, 455, 467
Wragge v Pritchard (1930)	38, 73, 108
Wyong Shire Council v Shirt (1980)	556, 563, 577
X v Commonwealth (1999)	353
Yager v The Queen (1977)	28
Yaohan Hong Kong Corp Ltd, Re (2001)	650
Your Size Fashions Ltd, Re (1990)	608
Ziems v Prothonotary of the Supreme Court (NSW) (1957)	178
Zuker v Commissioner for Corporate Affairs (1981)	145