

2007-2008

THE

COMMONWEALTH
LAW REPORTS

CASES DETERMINED
IN THE
HIGH COURT OF AUSTRALIA

EDITOR
J D MERRALLS, AM, QC

VOLUME 234

LAWBOOK CO.

2008

REPORTERS

G J AHERN
M Y BEARMAN
M I BORSKY
C G BUTTON
G S CLARKE, SC
L G DE FERRARI
C J HORAN
E M KINGSTON
C LYNE
A D POUND
J A REDWOOD
D F C THOMAS
P T VOUT
P G WILLIS

BARRISTERS

PRODUCTION EDITOR

CAROLYN MAY



THOMSON REUTERS

© 2008 Thomson Reuters (Professional) Australia Limited
ABN 64 058 914 668

Lawbook Co.

Published in Sydney

Printed by Ligare Pty Ltd, Riverwood, NSW

ISSN 0069-7133

JUSTICES OF THE HIGH COURT OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

THE HONOURABLE ANTHONY MURRAY GLEESON, AC, CHIEF
JUSTICE

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
(retired 31 August 2007)

THE HONOURABLE JOHN DYSON HEYDON, AC

THE HONOURABLE SUSAN MAREE CRENNAN, AC

THE HONOURABLE SUSAN MARY KIEFEL
(appointed 3 September 2007)

ATTORNEY-GENERAL

THE HONOURABLE PHILLIP MAXWELL RUDDOCK, MP

THE HONOURABLE ROBERT BRUCE McCLELLAND, MP
(from 3 December 2007)

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

**TABLE OF CASES REPORTED
IN THIS VOLUME**

Adams v The Queen	143
Ansett Australia Holdings Ltd; International Air Transport Association v .	151
Australian Finance Direct Ltd v Director of Consumer Affairs (Vic)	96
Betfair Pty Ltd v Western Australia	418
Blessington v The Queen	38
Calco Timbers Pty Ltd; Dwyer v	124
Chang v Laidley Shire Council	1
Commonwealth, The; Telstra Corporation Ltd v	210
Consumer Affairs (Vic), Director of; Australian Finance Direct Ltd v	96
Dederer; Roads and Traffic Authority (NSW) v	330
Duffy Bros Fruit Market (Campbelltown) Pty Ltd; Gumland Property Holdings Pty Ltd v	237
Dwyer v Calco Timbers Pty Ltd	124
Elliott v The Queen	38
Foots v Southern Cross Mine Management Pty Ltd	52
Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
Gypsy Jokers Motorcycle Club Inc v Commissioner of Police	532
Hungary, Republic of; Zentai v	599
International Air Transport Association v Ansett Australia Holdings Ltd ..	151
Ireland; O'Donoghue v	599
Justice, Department of, Secretary; Osland v	275
Laidley Shire Council; Chang v	1
O'Donoghue v Ireland	599
Osland v Secretary, Department of Justice	275
Police, Commissioner of; Gypsy Jokers Motorcycle Club Inc v	532

TABLE OF CASES REPORTED

R; Adams v	143
Roads and Traffic Authority (NSW) v Dederer	330
Southern Cross Mine Management Pty Ltd; Foots v	52
Telstra Corporation Ltd v The Commonwealth	210
United States of America; Williams v	599
Washer v Western Australia	492
Western Australia; Betfair Pty Ltd v	418
Western Australia; Washer v	492
Williams v United States of America	599
Zentai v Republic of Hungary	599

TABLE OF CASES JUDICIALLY CONSIDERED IN CASES REPORTED IN THIS VOLUME

<i>AMEV-UDC Finance Ltd v Austin</i> (1986) 162 CLR 170	
Distinguished. Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
<i>Ansett Australia Holdings Ltd v International Air Transport Association</i> (2006) 60 ACSR 468; 24 ACLC 1,381	60
Reversed. International Air Transport Association v Ansett Australia Holdings Ltd	151
<i>Army, Minister for the v Dalziel</i> (1944) 68 CLR 261 at 285, 290	
Referred to. Telstra Corporation Ltd v The Commonwealth	210
<i>Australian Finance Direct Ltd v Director of Consumer Affairs Victoria</i> (2006) 16 VR 131	16
Affirmed. Australian Finance Direct Ltd v Director of Consumer Affairs Victoria	96
<i>Autodesk Inc v Dyason [No 2]</i> (1993) 176 CLR 300 at 302-303	
Applied. Elliott v The Queen	38
<i>Baker v The Queen</i> (2004) 223 CLR 513	
Considered. Elliott v The Queen	38
<i>Barwon Spinners Pty Ltd v Podolak</i> (2005) 14 VR 622	
Disapproved. Dwyer v Calco Timbers Pty Ltd	124
<i>British Eagle International Air Lines Ltd v Compagnie Nationale Air France</i> [1975] 1 WLR 758; [1975] 2 All ER 390	
Distinguished. International Air Transport Association v Ansett Australia Holdings Ltd	151
<i>British Gold Fields of West Africa, In re</i> [1899] 2 Ch 7	
Not followed. Fooths v Southern Cross Mine Management Pty Ltd	52
<i>Brodie v Singleton Shire Council</i> (2001) 206 CLR 512 at 581	
Applied. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>Castlemaine Tooheys Ltd v South Australia</i> (1990) 169 CLR 436	
Considered. Betfair Pty Ltd v Western Australia	418
<i>Chang v Laidley Shire Council</i> (2006) 146 LGERA 283	
Affirmed. Chang v Laidley Shire Council	1
<i>Consolidated Trust Co Ltd v Naylor</i> (1936) 55 CLR 423	
Distinguished. Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
<i>Di Lena v Western Australia</i> (2006) 165 A Crim R 482	
Affirmed. Washer v Western Australia	492
<i>Duffy Bros Fruit Market (Campbelltown) Pty Ltd v Gumland Property Holdings Pty Ltd</i> [2007] ANZ ConvR 153	
Reversed. Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237

TABLE OF CASES JUDICIALLY CONSIDERED

<i>Eastman v The Queen</i> (2000) 203 CLR 1	
Applied. Dwyer v Calco Timbers Pty Ltd	124
<i>Garrett v The Queen</i> (1977) 139 CLR 437	
Referred to. Washer v Western Australia	492
<i>Grierson v The King</i> (1938) 60 CLR 431 at 436	
Explained. Elliott v The Queen	38
<i>Gypsy Jokers Motorcycle Club Inc v Commissioner of Police</i> (2007) 33 WAR 245	
Affirmed. Gypsy Jokers Motorcycle Club Inc v Commissioner of Police	532
<i>House v The King</i> (1936) 55 CLR 499	
Distinguished. Dwyer v Calco Timbers Pty Ltd	124
<i>Justice, Secretary, Department of v Osland</i> (2007) 95 ALD 380	
Reversed. Osland v Secretary, Department of Justice	275
<i>Leichhardt Municipal Council v Montgomery</i> (2007) 230 CLR 22	
Referred to. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>Mann v Carnell</i> (1999) 201 CLR 1	
Applied. Osland v Secretary, Department of Justice	275
<i>Nagle v Rottnest Island Authority</i> (1993) 177 CLR 423	
Referred to. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>New South Wales v Fahy</i> (2007) 232 CLR 486	
Referred to. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>P & A Swift Investments v Combined English Stores Group Plc</i> [1989] AC 632	
Applied. Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
<i>Pacific Carriers Ltd v BNP Paribas</i> (2004) 218 CLR 451	
Applied. International Air Transport Association v Ansett Australia Holdings Ltd	151
<i>Progressive Mailing House Pty Ltd v Tabali Pty Ltd</i> (1985) 157 CLR 17 at 31	
Applied. Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
<i>R v Elliott; R v Blessington</i> (2006) 68 NSWLR 1	
Affirmed. Elliott v The Queen	38
<i>R v Poon</i> (2003) 56 NSWLR 284	
Referred to. Adams v The Queen	143
<i>R v Pidoto</i> (2006) 14 VR 269 at 282	
Referred to. Adams v The Queen	143
<i>R v Storey</i> (1978) 140 CLR 364	
Referred to. Washer v Western Australia	492
<i>R v Young</i> [1998] 1 VR 402	
Distinguished. Washer v Western Australia	492
<i>R v Z</i> [2000] 2 AC 483	
Distinguished. Washer v Western Australia	492

TABLE OF CASES JUDICIALLY CONSIDERED

ix

<i>Road and Traffic Authority (NSW) v Dederer</i> [2006] Aust Torts Reports 81-860 Reversed to. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>Shevill v Builders Licensing Board</i> (1982) 149 CLR 620 at 627 Applied. Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
<i>Smith v ANL Ltd</i> (2000) 204 CLR 493 at 505-506 Applied. Telstra Corporation Ltd v The Commonwealth	210
<i>Southern Cross Mine Management Pty Ltd v Ensham Resources Pty Ltd</i> (2006) 4 ABC (NS) 443 Affirmed. Fooths v Southern Cross Mine Management Pty Ltd	52
<i>Vairy v Wyong Shire Council</i> (2005) 223 CLR 422 Referred to. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>Williams v United States of America</i> (2007) 161 FCR 220 Affirmed. O'Donoghue v Ireland	599
<i>Wyong Shire Council v Shirt</i> (1980) 146 CLR 40 at 47-48 Applied. Roads and Traffic Authority (NSW) v Dederer and Another	330
<i>Yanner v Eaton</i> (1999) 201 CLR 351 at 365-367, 388-389 Referred to. Telstra Corporation Ltd v The Commonwealth	210
<i>Zentai v Republic of Hungary</i> (2007) 157 FCR 585 Affirmed. O'Donoghue v Ireland	599

STATUTES, RULES, ETC JUDICIALLY CONSIDERED

COMMONWEALTH CONSTITUTION

Ch III: Gypsy Jokers Motorcycle Club Inc v Commissioner of Police	532
s 51(xxi): Telstra Corporation Ltd v The Commonwealth	210
s 92: Betfair Pty Ltd v Western Australia	418

COMMONWEALTH

Bankruptcy Act 1966

s 58(3): Fooths v Southern Cross Mine Management Pty Ltd	52
s 82(1): Fooths v Southern Cross Mine Management Pty Ltd	52

Corporations Act 2001

Pt 5.3A: International Air Transport Association v Ansett Australia Holdings Ltd	151
--	-----

Crimes Act 1914

s 4AAA: O'Donoghue v Ireland	599
s 16A(2)(a): Adams v The Queen	143

Customs Act 1901

s 235: Adams v The Queen	143
Sch VI: Adams v The Queen	143

Extradition Act 1988

s 5 magistrate: O'Donoghue v Ireland	599
s 19(1): O'Donoghue v Ireland	599
s 46(a): O'Donoghue v Ireland	599

Trade Practices Act 1974

Pt XIC: Telstra Corporation Ltd v The Commonwealth	210
--	-----

NEW SOUTH WALES

Conveyancing Act 1919

s 117(1): Gumland Property Holdings Pty Ltd v Duffy Bros Fruit Market (Campbelltown) Pty Ltd	237
--	-----

Criminal Appeal Act 1912

s 2: Elliott v The Queen	38
s 5: Elliott v The Queen	38
s 6: Elliott v The Queen	38

Local Courts Act 1982

O'Donoghue v Ireland	599
----------------------------	-----

QUEENSLAND

Acts Interpretation Act 1954

s 20(2)(c): Chang v Laidley Shire Council	1
---	---

Integrated Planning Act 1997

s 3.2.1(7)(f): Chang v Laidley Shire Council	1
s 5.4.2: Chang v Laidley Shire Council	1

VICTORIA**Accident Compensation Act 1985**

s 134AD: Dwyer v Calco Timbers Pty Ltd 124

Consumer Credit (Victoria) Act 1995

s 5: Australian Finance Direct Ltd v Director of Consumer Affairs (Vic) 96

Consumer Credit (Victoria) Code

s 14: Australian Finance Direct Ltd v Director of Consumer Affairs (Vic) 96

s 15(B): Australian Finance Direct Ltd v Director of Consumer Affairs (Vic) 96

County Court Act 1958

s 74(3): Dwyer v Calco Timbers Pty Ltd 124

Freedom of Information Act 1982

s 32(1): Osland v Secretary, Department of Justice 275

s 50(4): Osland v Secretary, Department of Justice 275

WESTERN AUSTRALIA**Betting Control Act 1954**

s 24(1aa): Betfair Pty Ltd v Western Australia 418

s 27D(1): Betfair Pty Ltd v Western Australia 418

Corruption and Crime Commission Act 2003

s 76: Gypsy Jokers Motorcycle Club Inc v Commissioner of Police 532

Magistrates Courts Act 2004

O'Donoghue v Ireland 599

TABLE OF CASES CITED IN THE JUDGMENTS

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

Advance Bank Australia Ltd v Queensland Heritage Council (1993)	36
Air Canada v Secretary of State for Trade [No 2] (1983)	595
Air Canada, Re (2004)	182
Akai Pty Ltd v People's Insurance Co Ltd (1995)	207
Akai Pty Ltd v People's Insurance Co Ltd (1996)	206, 207
Aktiebolaget Hassle v Alphapharm Pty Ltd (2002)	379
Aktiebolaget Hassle v Commissioner of Patents [No 2] (1989)	596
Alister v The Queen (1984)	595, 596
Allsmanti Pty Ltd v Ernikiolis (2007)	137
Alyeska Pipeline Service Co v Wilderness Society (1975)	64
Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920)	16
AMEV-UDC Finance Ltd v Austin (1986)	256, 257, 260
Annetts v McCann (1990)	596
Ansett Australia Holdings Ltd v International Air Transport Association (2006)	159,
	173, 177, 178, 186, 189, 191, 193-197, 199-201
Applicant VEAL of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs (2005)	583, 596
Army, Minister for the v Dalziel (1944)	230, 232
Ashcroft, Ex parte; Re Todd (1887)	67
AssetInsure Pty Ltd v New Cap Reinsurance Corporation Ltd (In liq) (2006)	114
Aston v Irvine (1955)	617, 623, 624, 638-640, 648, 651
Attorney-General v Prince Ernest Augustus of Hanover (1956)	113
Attorney-General v Tse Chu-Fai (1998)	575
Attorney-General (Cth) v Schmidt (1961)	230
Attorney General (NSW) v Quin (1990)	307
Attorney General (NSW) v Stuart (1994)	550
Attorney-General (NT) v Chaffey (2007)	63, 232
Attorney-General (NT) v Kearney (1985)	327
Attorney-General (NT) v Maurice (1986)	310, 325
Attorney-General (NZ) v McMillan & Lockwood Ltd (1990)	182
Attorney-General (Qld) v Australian Industrial Relations Commission (2002) . 6, 16, 34	
Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd (1988)	302
Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd [No 2] (1987) ..	301,
	302
Attorney-General (Vic) v Andrews (2007)	631
Auscott Ltd v Panizza (1988)	264
Austin v The Commonwealth (2003)	614, 624-626, 647, 650, 651
Australia & New Zealand Banking Group Ltd v R & D Bollas (1999)	118
Australia, Owners of the v Owners of Cargo of the Nautilus (1926)	404
Australian Broadcasting Commission v Parish (1980)	560, 561
Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd (2001)	350

TABLE OF CASES CITED

xiii

Australian Communist Party v The Commonwealth (Communist Party Case) (1951)	630
Australian Competition and Consumer Commission v Daniels Corporation International Pty Ltd (2001)	308, 316
Australian Conservation Foundation v The Commonwealth (1979)	150
Australian Education Union, Re; Ex parte Victoria (1995)	624, 625, 651
Australian Finance Direct Ltd v Director of Consumer Affairs (Vic) (2004)	100, 110
Australian Finance Direct Ltd v Director of Consumer Affairs (Vic) (2006)	100, 109, 112, 115-117, 121
Australian Mutual Provident Society v Allan (1978)	178, 179
Australian Safeway Stores Pty Ltd v Zaluzna (1987)	347, 352, 401
Australian Securities and Investments Commission v Edensor Nominees Pty Ltd (2001)	647
Australian Tape Manufacturers Association Ltd v The Commonwealth (1993)	232
Autodesk Inc v Dyason [No 2] (1993)	48, 50
 B Mullan & Sons Contractors Ltd v Ross (1996)	182
Baffsky v Brewis (1976)	335, 405, 414
Baillieu Knight Frank (NSW) Pty Ltd v Ted Manny Real Estate Pty Ltd (1992)	79
Baker v Campbell (1983)	292, 293, 325
Baker v Carr (1962)	150
Baker v The Queen (2004)	43, 45, 46, 563, 576
Baldwin v GAF Seelig Inc (1935)	460, 461
Bank of New South Wales v The Commonwealth (1948)	230, 232, 569
Bankruptcy, Official Trustee in v C S and G J Handby Pty Ltd (1989)	92
Barley Marketing Board (NSW) v Norman (1990)	451, 461, 481
Barwon Spinners Pty Ltd v Podolak (2005)	131, 134-137, 139, 140
Bass v Permanent Trustee Co Ltd (1999)	577, 594
Batagol v Federal Commissioner of Taxation (1963)	114
Bath v Alston Holdings Pty Ltd (1988)	451, 455, 479
Benecke v National Australia Bank Ltd (1993)	291, 297
Bennett v Chief Executive Officer, Australian Customs Service (2004) ..	292
Berowra Holdings Pty Ltd v Gordon (2006)	560
Berrigan Shire Council v Ballerini (2005)	337, 401
Bettini v Gye (1876)	259
BHP Billiton Ltd v Schultz (2004)	555, 578
Birmingham University and Epsom College v Federal Commissioner of Taxation (1938)	659
Bluck, In re; Ex parte Bluck (1887)	70-72
Blyth v Birmingham Waterworks Co (1856)	348, 372
Bodruddaza v Minister for Immigration and Multicultural Affairs (2007) .	560
Bolton v Stone (1951)	351
Bolton, Re; Ex parte Beane (1987)	21, 82, 111
Boral Besser Masonry Ltd v Australian Competition and Consumer Commission (2003)	449, 480
Botany Council v Ombudsman (1995)	303
Brash Holdings Ltd v Katile Pty Ltd (1994)	171, 172, 203
Bridgewater v Leahy (1998)	336, 405, 414

TABLE OF CASES CITED

Brisbane City Council v Ace Waste Pty Ltd (1997)	21
British Eagle International Air Lines Ltd v Compagnie Nationale Air France (1975)	87, 158, 159, 163, 164, 166, 167, 169, 170, 172, 175, 180-182, 191-194, 201, 202, 204, 205, 207
British Eagle International Airlines Ltd v Compagnie Nationale Air France (1972)	163, 168, 170, 191
British Eagle International Airlines Ltd v Compagnie Nationale Air France (1974)	163, 164, 168, 170, 192, 196, 199, 202
British Gold Fields of West Africa, In re (1899) .	55, 59, 61, 62, 66, 71-75, 77, 82
British Medical Association v The Commonwealth (1949)	233
British Steel Corporation v Granada Television Ltd (1980)	288
Brodie v Singleton Shire Council (2001)	345-347, 349, 373, 402
Bropho v Western Australia (1990)	16, 84, 112, 120, 303
Brown v Houston (1885)	462
Brown, Ex parte; Re Tunstall (1966)	574
Bruce v Cole (1998)	658
Bruce v Waldron (1963)	574
Buckle v Bayswater Road Board (1936)	339
Builders Licensing Board v Sperway Constructions (Syd) Pty Ltd (1976) .	128
Bullock v London General Omnibus Co (1906)	63, 64
Butcher v Henderson (1868)	23
Campbell v United Kingdom (1992)	307
Canada Deposit Insurance Corporation v Canadian Commercial Bank (1992)	182
Canham v Australian Guarantee Corporation Ltd (1993)	118-120
Carr v Western Australia (2007)	113
Carty v Croydon London Borough Council (2005)	138
Castlemaine Tooheys Ltd v South Australia (1990)	451, 453, 461, 464, 473-478, 481
CDJ v VAJ (1998)	42
Central Bayside General Practice Association Ltd v Commissioner of State Revenue (Vic) (2006)	20, 77, 202
Chang v Laidley Shire Council (2005)	5, 28
Chang v Laidley Shire Council (2006)	5, 7, 8, 20, 28
Chang v Laidley Shire Council (2007)	82, 111
Channel Seven Adelaide Pty Ltd v Manock (2007)	202
Charkoui, Re (2007)	597
Cheng v The Queen (2000)	614
Christie v Ford (1957)	574
Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs (1992)	560
Church of Scientology Inc v Woodward (1980)	556, 567
CIC Insurance Ltd v Bankstown Football Club Ltd (1997)	16, 17, 55, 84, 113, 120, 316, 592
Clissold v Perry (1904)	17
Clunies-Ross v The Commonwealth (1984)	230
Coal & Allied Operations Pty Ltd v Australian Industrial Relations Commission (2000)	138
Coco v The Queen (1994)	16

TABLE OF CASES CITED

xv

Codelfa Construction Pty Ltd v State Rail Authority (NSW) (1982)	160
Cole v South Tweed Heads Rugby League Football Club Ltd (2004)	379
Cole v Whitfield (1988)	451-456, 461, 474, 477, 481
Cole, Re (1998)	205
Coleman v Power (2004)	303
Coleman v Shell Co of Australia Ltd (1943)	32, 33
Combet v The Commonwealth (2005)	83, 111, 572, 633
Commonwealth, The and Commonwealth Oil Refineries Ltd v South Australia (1926)	455
Commonwealth, The v Bank of New South Wales (1949)	477
Commonwealth, The v Introvigne (1982)	335, 405, 414
Commonwealth, The v New South Wales (1923)	647, 648
Commonwealth, The v SCI Operations Pty Ltd (1998)	32, 33
Commonwealth, The v WMC Resources Ltd (1998)	230
Communist Party Case (Australian Communist Party v The Commonwealth) (1951)	630
Community Development Pty Ltd v Engwirda Construction Co (1969) .	66, 89
Compass Airlines Pty Ltd, Re (1992)	308
Concrete Pty Ltd v Parramatta Design & Developments Pty Ltd (2006) ...	36
Consolidated Trust Co Ltd v Naylor (1936)	269-272
Consumer Affairs, Director of (Vic) v Australian Finance Direct Ltd (2004)	100, 110, 115
Continental Liqueurs Pty Ltd v GF Heublein and Bros Inc (1960)	16
Conway v Rimmer (1968)	574, 575, 595
Cook v Cook (1986)	84
Cooley v Board of Wardens of the Port of Philadelphia (1851)	475
Cooper Brookes (Wollongong) Pty Ltd v Federal Commissioner of Taxation (1981)	114
Corbett v Social Security Commission (1962)	574
Cornwell v The Queen (2007)	77
Coronation Street Industrial Properties Ltd v Ingall Industries Plc (1989) .	268
Corporate Affairs Commission (NSW) v Yuill (1991)	109, 112
Costa Rica, Republic of v Erlanger (1876)	22
Coventry v Charter Pacific Corporation Ltd (2005) .	58, 62, 75, 77, 82, 89, 91, 92
Cram, Re; Ex parte NSW Colliery Proprietors Association Ltd (1987)	649
Criminal Proceeds Confiscation Act 2002 (Qld), Re (2003)	566
Croome v Tasmania (1997)	470
CSR Ltd v Eddy (2005)	382
Customs, Collector of v Agfa-Gevaert Ltd (1996)	17, 83, 112
D'Orta-Ekenaikie v Victoria Legal Aid (2005)	41, 336
Da Costa v Cockburn Salvage & Trading Pty Ltd (1970)	48
Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission (2002)	20, 27, 307, 308, 316, 324, 325
Darling Casino Ltd v NSW Casino Control Authority (1997)	582
Davern v Messel (1984)	511
David Syme & Co Ltd v General Motors-Holden's Ltd (1984)	596
Day & Dent Constructions Pty Ltd v North Australian Properties Pty Ltd (1982)	197

TABLE OF CASES CITED

Debtor, In re a (1911)	65, 66, 73
Dederer v Roads and Traffic Authority (2005)	333, 339, 340, 344, 349,
360-364, 367, 374, 375, 380, 382, 383, 392-399, 409, 410, 416	
Degmam Pty Ltd (In liq) v Wright [No 2] (1983)	79
Devi v Roy (1946)	412, 413
Di Lena v Western Australia (2006)	497, 512-514, 523
Dietrich v The Queen (1992)	528
Dingjan, Re; Ex parte Wagner (1995)	482
DJL v Central Authority (2000)	47, 48
Donaldson v Harris (1973)	385
Donoghue v Stevenson (1932)	345
Dossett v TKJ Nominees Pty Ltd (2003)	6, 15, 16, 20
Dovuro Pty Ltd v Wilkins (2003)	344
Dowling v United States (1990)	521
Downs v Williams (1971)	14
DSE (Holdings) Pty Ltd v Intertan Inc (2003)	293
Duffield, In re; Ex parte Peacock (1873)	69, 72
Duffy Bros Fruit Market (Campbelltown) Pty Ltd v Gumland Property Holdings Pty Ltd (2007)	241, 249-252
Duncan v Cammell, Laird & Co (1942)	574, 575
Duncan v Queensland (1916)	464
Durham Holdings Pty Ltd v New South Wales (2001)	10
Dwyer v Calco Timbers Pty Ltd (2006)	128, 140, 141
Eastman v Director of Public Prosecutions (ACT) (2003)	114
Eastman v The Queen (2000)	128
Edson v Roads and Traffic Authority (2006)	347
Edwards v Minister of Transport (1964)	10
Elbe Shipping SA v Giant Marine Shipping SA (2007)	575
Electric Light and Power Supply Corporation Ltd v Electricity Commission (NSW) (1956)	555
Elliott v The Queen (2007)	129
Emma Silver Mining Co v Grant (1880)	72, 73
Employment and Workplace Relations, Minister for v Gribbles Radiology Pty Ltd (2005)	83, 114
Enfield City Corporation v Development Assessment Commission (2000)	132, 558
Esanda Finance Corporation Ltd v Plessnig (1989)	256, 257, 260, 261
Esber v The Commonwealth (1992)	16
Esso Australia Resources Ltd v Federal Commissioner of Taxation (1999)	114, 180, 299, 308, 316, 325
Ex parte Harding (1854)	69
FAI Insurances Ltd v Winneke (1982)	307
Fardon v Attorney-General (Qld) (2004) ..	562, 563, 567, 570, 576, 577, 591
Favelle Mort Ltd v Murray (1976)	84
Federal Commerce & Navigation Co Ltd v Molena Alpha Inc (The Nanfri) (1978)	257
Federated Engine-Drivers' and Firemen's Association of Australasia v Adelaide Chemical and Fertilizer Co Ltd (1920)	623
Festa v The Queen (2001)	529

TABLE OF CASES CITED

xvii

Ffrost v Stevenson (1937)	642
Financings Ltd v Baldock (1962)	259
Fingleton v Lowen (1979)	465
Fitzgerald v FJ Leonhardt Pty Ltd (1997)	180
Fitzgerald v Muldoon (1976)	623, 653
Flaherty v Girgis (1987)	75
Fleming v The Queen (1998)	48
Flynn v The King (1949)	297
Foots v Southern Cross Mine Management Pty Ltd (2007)	182, 202
Forge v Australian Securities and Investments Commission (2006) ... 32, 563,	567, 572, 576, 591
Forster v Wilson (1843)	92
Fothergill v Monarch Airlines Ltd (1980)	84, 112
Fox v Percy (2003)	128, 133, 377, 380, 402, 404, 405
Fox v Robbins (1908)	461
Foxley v United Kingdom (2000)	307
Fraser Property Developments Pty Ltd v Sommerfeld [No 2] (2005) .. 60, 62,	73, 74
Free Lanka Insurance Co Ltd v Ranasinghe (1963)	15
Gagnon v Quebec Securities Commission (1964)	574
Garrett v The Queen (1977)	505, 506, 508, 517-521, 527, 528
George v Rockett (1990)	557, 582
Georgiadis v Australian and Overseas Telecommunications Corporation (1994)	230
Geraldton Building Co Pty Ltd v May (1977)	15
GF Heublein and Bros Inc v Continental Liqueurs Pty Ltd (1962)	16
Giannarelli v Wraith [No 2] (1991)	294
Gibbons v Ogden (1824)	475
Glenister v Rowe (1999)	60, 62, 66
GM & AM Pearce & Co Pty Ltd v RGM Australia Pty Ltd (1997) 87, 92,	200
Goddard v Vanderheyden (1771)	67
Goldberg v Ng (1995)	297
Goldsmith v Sandilands (2002)	498
Gould v Vaggelas (1984)	383
Grace Bros Pty Ltd v The Commonwealth (1946)	230
Graham Barclay Oysters Pty Ltd v Ryan (2002) 334, 336, 344, 379, 414	
Grannall v C Geo Kellaway and Sons Pty Ltd (1955)	659
Grant v Downs (1976)	292, 324
Grant v John Grant & Sons Pty Ltd (1950)	71
Graziers Association (NSW) v Australian Legion of Ex-servicemen and Women (1949)	128
Grdic v The Queen (1985)	520
Great Lakes Shire Council v Dederer (2006) 333, 341-344, 347, 349-352, 354, 356-363, 367, 368, 370, 372-379, 381, 382, 398, 399, 409, 410	
Great Lakes Shire Council v Dederer [No 2] (2006)	357, 383, 385
Green v The Queen (1997)	304
Grierson v The King (1938)	42, 47
Griffiths v The Queen (1977)	41

Grollo v Palmer (1995)	562, 568, 593
Grosvenor Hotel, London, In re [No 2] (1964)	574
Gumland Property Holding Pty Ltd v Duffy Bros Fruit Markets (Campbelltown) Pty Ltd (2006)	241
Gurbachan Singh v Satpal Singh (1989)	22
Guy v City of Baltimore (1879)	462, 463
Gye v McIntyre (1991)	87, 92
Gypsy Jokers Motorcycle Club Inc v Commissioner of Police (2007)	552, 559, 562, 566-571, 578, 585, 594
Gypsy Jokers Motorcycle Club Inc v Commissioner of Police (2008)	633
Ha v New South Wales (1997)	452, 454, 458, 661
Haque v Haque [No 2] (1965)	272
Hardie (James) & Co Pty Ltd v Seltsam Pty Ltd (1998)	114, 555
Hargan v The King (1919)	404
Harris v Attorney-General (Cth) (1994)	621
Hartigan Nominees Pty Ltd v Rydge (1992)	138
Hedge, Re; Ex parte Goddard (1994)	73
Hess v Alaska (2001)	521
Heublein (GF) and Bros Inc v Continental Liqueurs Pty Ltd (1962)	16
Hilali, Re (2008)	634
Hill v East & West India Dock Co (1884)	91
Hill, Ex parte (1804)	67, 76
Hitachi Plant Engineering & Construction Co Ltd v Eltraco International Pte Ltd (2003)	182
Hoath v Comcen Pty Ltd (2005)	171, 172
Hobbs v Hobbs (1959)	294
Hobson v Hansen (1967)	569
Hocking v Bell (1945)	511
Hollis v Vabu Pty Ltd (2001)	179
Holmgren v United States (1910)	624
Hongkong Fir Shipping Co Ltd v Kawasaki Kisen Kaisha Ltd (1961)	257, 259
Horne v Chester & Fein Property Developments Pty Ltd (1987)	167, 181, 182, 193
Horwitz v Connor (1908)	297
House v The King (1936)	134, 137-139
Houssein v Under Secretary, Department of Industrial Relations and Technology (NSW) (1982)	652
Humphries v Poljak (1991)	129, 133, 137
Ibbs v The Queen (1987)	148
Immigration and Multicultural Affairs, Minister for, Re; Ex parte Miah (2001)	131
Indermaur v Dames (1866)	345
Industrial Relations Act Case (Victoria v The Commonwealth) (1996)	232, 459, 482
International Air Transport Association v Ansett Australia Holdings Ltd (2005)	158, 173, 186, 191, 193
Isherwood v Butler Pollnow Pty Ltd (1986)	113

TABLE OF CASES CITED

xix

Island Maritime Ltd v Filipowski (2006)	511, 517
James Hardie & Co Pty Ltd v Seltsam Pty Ltd (1998)	114, 555
James v The Commonwealth (1936)	475
Jarratt v Commissioner of Police (NSW) (2005)	596
Jeavons Ex parte; Re Mackay (1873)	180, 181
Jones v Director of Public Prosecutions (1962)	113
Julius v Lord Bishop of Oxford (1880)	642, 643
Jumbunna Coal Mine NL v Victorian Coal Miners' Association (1908) ..	453
Justice, Secretary, Department of v Osland (2007) ... 280, 308, 313, 315, 319,	
	328, 329
K & S Lake City Freighters Pty Ltd v Gordon & Gotch Ltd (1985)	113
Kable v Director of Public Prosecutions (NSW) (1996)	551, 562, 563,
	566-570, 572, 576-578, 582, 584, 590-592, 594
Kades v Kades (1961)	138
Kemp v The King (1951)	517
Kentucky v Dennison (1860)	624
Kettering Pty Ltd v Noosa Shire Council (2004)	10, 11
King, Re (1963)	263
Kingston v Keprose Pty Ltd (1987)	84, 94, 112, 120
Kioa v West (1985)	583
Klingman v Levinson (1987)	205
Knight v FP Special Assets Ltd (1992)	63-65
Koompahtoo Local Aboriginal Land Council v Sanpine Pty Ltd (2007) ..	257
Krakauer v The Queen (1998)	515
Kruger v The Commonwealth (1997)	579
Kumar v Dunning (1987)	268, 271, 272
L'Office Cherifien des Phosphates v Yamashita-Shinnihon Steamship Co Ltd (1993)	15, 26
Lake v Simmons (1927)	160
Lake (K & S) City Freighters Pty Ltd v Gordon & Gotch Ltd (1985)	113
Lam Fung, Re (2003)	182
Lang v Asemo Pty Ltd (1989)	268, 272
Lange v Australian Broadcasting Corporation (1997)	303, 453
Latoudis v Casey (1990)	79
Leeth v The Commonwealth (1992)	579
Leichhardt Municipal Council v Montgomery (2007)	338, 346, 348-350
Lewis v Attorney-General (Jamaica) (2000)	297
Liftronic Pty Ltd v Unver (2001)	380
Lloyd v Robinson (1962)	35
Llynvi Coal & Iron Co, Ex parte; In re Hide (1871)	58, 92
Lombard North Central Plc v Butterworth (1986)	259
Louth v Diprose (1992)	334, 335, 378, 405, 411, 414, 415
Magor and St Mellons Rural District Council v Newport Corporation (1951)	113
Major v Bretherton (1928)	335, 405, 414, 415
Mallard v The Queen (2005)	42, 404

TABLE OF CASES CITED

Mann v Carnell (1999)	289, 291-293, 296, 297, 299, 308, 310, 325
Mann v O'Neill (1997)	653
Mansell v Beck (1956)	474
Mansfield v Director of Public Prosecutions (WA) (2006)	555
Maredelanto Compania Naviera SA v Bergbau-Handel GmbH (1970)	267
Mathieson v Burton (1971)	14
Maxwell Communications Corporation Plc (1993)	182, 205
Maxwell v Murphy (1957)	6, 14, 16, 23, 32
McCann v Switzerland Insurance Australia Ltd (2000)	160
McCarter v Brodie (1950)	451
McCluskey v Pasminco Ltd (2002)	66, 73
McDonald v Dennys Lascelles Ltd (1933)	260, 261
McHale v Watson (1964)	381
McKinnon v Secretary, Department of Treasury (2006)	303, 323
McLellan v Australian Stock Exchange Ltd (2005)	66, 69, 71, 73
Mechanical & General Inventions Co v Austin (1935)	511
Melbourne Corporation v The Commonwealth (1947)	614, 615, 624-626, 647, 648, 651
Mellifont v Attorney-General (Qld) (1991)	150
Merricks v Nott-Bower (1964)	574
Mickelberg v The Queen (1989)	379
Milner, Ex parte; Re Milner (1885)	206
Minnesota v Barber (1890)	463, 464
Mistretta v United States (1989)	563, 568, 593
Mitchell v Harris Engineering Co Ltd (1967)	15
Mobilio v Balliotis (1998)	129, 131, 134, 137
Modbury Triangle Shopping Centre Pty Ltd v Anzil (2000)	348, 379
Money Markets International Stockbrokers Ltd (In liq) v London Stock Exchange Ltd (2001)	205
Montecatini's Patent, Re (1973)	597
Montgomerie & Co Ltd v Wallace-James (1903)	414
Mraz v The Queen [No 2] (1956)	517
Mulligan v Coffs Harbour City Council (2005)	354, 401
Munnings v Hydro-Electric Commission (1971)	375
Muschinski v Dodds (1985)	413, 414
Mutual Pools & Staff Pty Ltd v The Commonwealth (1994)	232
Nagle v Rottnest Island Authority (1993)	356, 372, 401
Naoroji v Chartered Bank of India (1868)	197
Napier v Ryan (1954)	352
Narich Pty Ltd v Commissioner of Pay-roll Tax (NSW) (1983)	179
Native Title Act Case (Western Australia v The Commonwealth) (1995) .	625, 651
Neindorf v Junkovic (2005)	344, 346, 379
Nelson v Nelson (1995)	180
New South Wales v Amery (2006)	633
New South Wales v Corbett (2007)	582
New South Wales v Fahy (2007)	354, 371, 372, 379
New South Wales v The Commonwealth (Work Choices Case) (2006)	553, 585, 623, 631, 632

TABLE OF CASES CITED

xxi

Newcastle City Council v GIO General Ltd (1997)	16, 114, 120, 316
Newman, In re; Ex parte Brooke (1876)	70, 72
Nicholas v The Queen (1998)	559, 560
Nine Films & Television Pty Ltd v Ninox Television Ltd (2005)	298
Nominal Defendant v GLG Australia Pty Ltd (2006)	379
North Australian Aboriginal Legal Aid Service Inc v Bradley (2004)	552, 553, 577, 591, 616
North Eastern Dairy Co Ltd v Dairy Industry Authority of NSW (1975) .	453, 477
Northern Territory v Mengel (1995)	350
Nowlan v Marson Transport Pty Ltd (2001)	385
Nudd v The Queen (2006)	529
O'Dea v Allstates Leasing System (WA) Pty Ltd (1983)	259, 260
O'Sullivan v Farrer (1899)	323
Ogden Industries Pty Ltd v Lucas (1967)	14
Orion, The (1891)	404
Osenkowski v Magistrates Court (SA) (2006)	567
Oshlack v Richmond River Council (1998)	63-65, 79
Osland and Department of Justice, Re (2005) ...	280, 304, 309, 311, 316-318, 321, 325, 326
Osland v The Queen (1998)	282, 303, 304
P & A Swift Investments v Combined English Stores Group Plc (1988) .	263, 264, 268-270
P Caland, Owners of v Glamorgan Steamship Co (1893) .	334, 335, 405, 415
P Caland, The (1891)	404, 405
Pacific Carriers Ltd v BNP Paribas (2004)	160, 174, 194
Palgo Holdings Pty Ltd v Gowans (2005)	83, 114
Parker v Webb (1700)	264
Pasini v United Mexican States (2002)	621, 636
Patrick Stevedores Operations No 2 Pty Ltd v Maritime Union of Australia [No 3] (1998)	171
Patterson, Re; Ex parte Taylor (2001)	131, 314
Pearce v The Queen (1998)	41, 511, 521
Peat v Jones & Co (1881)	197
Pennington v Norris (1956)	379
Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vic) (2004)	632, 654
Permanent Trustee Australia Ltd v FAI General Insurance Co Ltd (In liq) (2003)	114
Permewan Wright Consolidated Pty Ltd v Attorney-General (NSW) (1978)	49
Pfennig v The Queen (1995)	513
Phillis v Daly (1988)	346
Photo Production Ltd v Securicor Transport Ltd (1980)	259
Pidoto v Victoria (1943)	482, 551
Pinkstone v The Queen (2004)	471, 474
Pitchford, In re (1924)	66, 73, 74
Plaintiff S157/2002 v The Commonwealth (2003)	27
Plewa v Chief Adjudication Officer (1994)	15, 23, 26

TABLE OF CASES CITED

Podrebersek v Australian Iron & Steel Pty Ltd (1985)	379
Police, Commissioner of v District Court (NSW) (1993)	302, 303
Police, Commissioner of v Tanos (1958)	595
Postiglione v The Queen (1997)	42
Potter v Minahan (1908)	16
Povey v Qantas Airways Ltd (2005)	190, 194
Premier and Cabinet, Department of v Hulls (1999)	313
Printz v United States (1997)	614, 624-626, 650
Progressive Mailing House Pty Ltd v Tabali Pty Ltd (1985)	256, 257, 260,
	261
Project Blue Sky Inc v Australian Broadcasting Authority (1998) .	16, 84, 113,
	114, 303, 316
Public Prosecutions, Director of v Shannon (1974)	511
Public Prosecutions, Director of v Smith (1989)	303, 318
Public Prosecutions (Cth), Director of v Kainhofer (1995)	636
Public Service Board (NSW) v Osmond (1986)	580, 583
Public Transport Commission (NSW) v J Murray-More (NSW) Pty Ltd (1975)	84
Public Trustee v Sutherland Shire Council (1992)	401
Queen Victoria Memorial Hospital v Thornton (1953)	639, 649
Queensland Electricity Commission v The Commonwealth (1985)	649
Queensland v The Commonwealth (1977)	75
R v Adams (2007)	147
R v Arp (1998)	520
R v Brown (1996)	17, 83, 112
R v Carngham (1978)	44
R v Carroll (2002)	41, 497, 506, 508, 517, 531
R v Chhay (1994)	304
R v Connare; Ex parte Wawn (1939)	475
R v Crocker (1992)	149
R v Degnan (2000)	521
R v Duncan; Ex parte Australian Iron and Steel Pty Ltd (1983)	649
R v Elliott and Blessington (2006)	41, 46-49
R v Foster; Ex parte Commonwealth Life (Amalgamated) Assurances Ltd (1952)	179
R v Garrett (1977)	519, 529
R v Gee (2001)	521
R v Harrison (1692)	514
R v Hughes (2000)	569, 619, 650, 655
R v Humby; Ex parte Rooney (1973)	617
R v Inhabitants of Denton (1852)	23
R v Jamieson (1992)	41, 43, 46
R v Kirby; Ex parte Boilermakers' Society of Australia (1956)	615
R v Lavender (2005)	112
R v Murphy (1985)	626
R v Nai Poon (2003)	148
R v O'Shea (1982)	42
R v Osland (1997)	282

TABLE OF CASES CITED

xxiii

R v Pidoto (2006)	146, 148
R v Reynhoudt (1962)	75
R v Secretary of State for Home Department; Ex parte Bentley (1993) ..	297
R v Secretary of State for Home Department; Ex parte Simms (1999)	27
R v Snider (1954)	574
R v Storey (1978)	506-508, 510, 511, 514, 517, 519-521, 527-529
R v Toohey; Ex parte Northern Land Council (1981)	297
R v Wilkes (1948)	516
R v Young (1996)	509, 520
R v Z (2000)	508, 520, 521
R v Zeccola (1983)	146
R (Morgan Grenfell & Co Ltd) v Special Commissioner of Income Tax (2002)	16
Radaich v Smith (1959)	255
Ratten v The Queen (1974)	41, 42
Reardon Smith Line Ltd v Yngvar Hansen-Tangen (1976)	160
Reckley v Minister of Public Safety and Immigration [No 2] (1996)	297
Reelaw v Queensland Heritage Council [No 2] (2004)	36
Residential Tenancies Tribunal (NSW), Re; Ex parte Defence Housing Authority (1997)	650
Residual Ascco Group Ltd v Spalvins (2000)	569
Resort Management Services Ltd v Noosa Shire Council (1996)	34
Rickard v Caldwell (1911)	58
Ridgeway v The Queen (1995)	560
Roach v Electoral Commissioner (2007)	561, 562
Robertson v Baldwin (1897)	624
Robertson v The Queen (1989)	149
Robins v National Trust Co Ltd (1927)	413
Robinson v South Australia [No 2] (1931)	574
Robinson v Western Australian Museum (1977)	150
Rogers v Hosegood (1900)	264
Rogers v The Queen (1994)	506, 508, 511, 517, 519, 531
Roman Catholic Church Trustees for Diocese of Canberra and Goulburn v Hadba (2005)	344
Romeo v Conservation Commission (NT) (1998)	346
Rosenberg v Percival (2001)	377, 406
Rouse v Shepherd [No 2] (1994)	79
Ruhani v Director of Police (2005)	652
Russell v Russell (1976)	584
Ryde Joinery Pty Ltd (In Admin) v Zisti (1997)	268, 272
Sacher Investments Pty Ltd v Forma Stereo Consultants Pty Ltd (1976) .	272
Sambasivam v Public Prosecutor, Federation of Malaya (1950)	507, 508, 511, 517, 518, 521, 524
Samuels v Readers' Digest Association Pty Ltd (1969)	451, 474
Sanderson v Blyth Theatre Co (1903)	64, 357, 382, 383, 386, 415-417
Sankey v Whitlam (1978)	550, 556, 567, 575, 595, 596
Saraswati v The Queen (1991)	21
Seven Bishops' Case (1688)	653
Shevill v Builders Licensing Board (1982)	253, 256, 257, 260

TABLE OF CASES CITED

Showa Shoji Australia Pty Ltd v Oceanic Life Ltd (1994)	268
Shrimpton v The Commonwealth (1945)	138
Silbert v Director of Public Prosecutions (WA) (2004)	563
Simmons v Lee (1998)	264, 268, 270, 272
Singh v The Commonwealth (2004)	160, 613
Skelton v Collins (1966)	84, 193
Smith v ANL Ltd (2000)	36, 234
Smith, Knight & Co, In re; Ex parte Ashbury (1868)	174
Social Security, Secretary of State for v Tunnicliffe (1990)	26
Sole v Wyner (2007)	64
Sons of Gwalia Ltd v Margaretic (2007)	58, 75, 86, 182
Soulemezis v Dudley (Holdings) Pty Ltd (1987)	580
South Australia v Johnson (1982)	412, 414
South Australia v The Commonwealth (1942)	615, 622, 629, 648, 651
Southern Cross Mine Management Pty Ltd v Ensham Resources Pty Ltd (2005)	56, 78
Southern Cross Mine Management Pty Ltd v Ensham Resources Pty Ltd (2006)	56, 59, 60-62, 78, 79, 81, 82, 94
Southern Portland Cement Ltd v Cooper (1973)	375
Spencer's Case (1583)	268
Sportodds Systems Pty Ltd v New South Wales (2003)	479
Sprague v Thompson (1886)	475
Stamp Duties (NSW), Commissioner of v Pearse (1953)	84
Standard Chartered Bank of Australia Ltd v Antico (1993)	310
State Rivers and Water Supply Commission v McIntyre (1965)	133
Steppke v National Capital Development Commission (1978)	383
Stevens v Kabushiki Kaisha Sony Computer Entertainment (2005)	113
Stingel v Clark (2006)	84, 116
Stock v Frank Jones (Tipton) Ltd (1978)	113
Storey v Lane (1981)	91
Sue v Hill (1999)	453
Sullivan v Moody (2001)	345
Surtees v Ellison (1829)	22
Sutherland Shire Council v Heyman (1985)	348
Suttor v Gundowda Pty Ltd (1950)	553
Swain v Waverley Municipal Council (2005)	336, 401
Sweedman v Transport Accident Commission (2006)	129
Sweeney v Boylan Nominees Pty Ltd (2006)	385
Talk Finance and Insurance Services Pty Ltd, Re (1994)	79
Taxation, Federal Commissioner of v Gosstray (1986)	66
Taxation, Federal Commissioner of v Ryan (2000)	21, 112, 114
TCN Channel Nine Pty Ltd v Hayden Enterprises Pty Ltd (1989)	267
Teubner v Humble (1963)	350
Theophanous v Herald & Weekly Times Ltd (1994)	303
Thomas v Mowbray (2007)	477
Thompson v Woolworths (Qld) Pty Ltd (2005)	346, 371
Tobacco Leaf Marketing Board (NSW) v Corte (1983)	659
Toll (FGCT) Pty Ltd v Alphapharm Pty Ltd (2004)	174
Totalizator Agency Board v Wagner (1963)	465

TABLE OF CASES CITED

xxv

Trust Co of Australia Ltd v Commissioner of State Revenue (Qld) (2003)	112
Turnbull v Medical Board (NSW) (1976)	128
203 North LaSalle Street Partnership, In re (2000)	205
United States Trust Co of New York v Australia & New Zealand Banking Group Ltd (1995)	182
United States v Montgomery (2001)	15
Unity Insurance Brokers Pty Ltd v Rocco Pezzano Pty Ltd (1998) .	114, 414
Vairy v Wyong Shire Council (2005)	347, 352, 353, 372, 399-402
Vasiljkovic v The Commonwealth (2006)	610, 621, 623, 634, 639
Vaughan v Menlove (1837)	348
Victoria v The Commonwealth (Industrial Relations Act Case) (1996)	232, 459, 482
Vigolo v Bostin (2005)	138
Vint v Hudspith (1885)	71, 73
Viro v The Queen (1978)	84
Von Einem v Griffin (1998)	297
Wakim, Re; Ex parte McNally (1999)	647, 652, 660, 663
Walker v Wallace Auto Sales Inc (1998)	117, 122
Walton, Ex parte; In re Levy (1881)	91
Waltons Stores (Interstate) Ltd v Maher (1988)	336, 405, 411, 414
Warren v Coombes (1979)	133, 137, 378
Water Conservation and Irrigation Commission (NSW) v Browning (1947)	323, 324
Waterford v The Commonwealth (1987)	286, 303, 308, 327
Watson v Lee (1979)	26
Waverley Council v Lodge (2001)	350, 374
Wednesbury Corporation v Ministry of Housing and Local Government (1965)	574
Weiss v The Queen (2005)	42, 528, 529
Weller, Re; Ex parte Weller (1867)	68, 69
Wenceslas v Director-General, Department of Community Services (2007)	202
Western Australia v The Commonwealth (Native Title Act Case) (1995) .	625, 651
Western Australian Planning Commission v Temwood Holdings Pty Ltd (2004)	6, 7, 14, 34
White v Director of Military Prosecutions (2007)	112
Wilkins v Broken Hill City Council (2005)	402
Williams v Minister for Justice and Customs (2007)	618, 634
Williams v United States (2007)	611, 613, 618, 620, 632, 633, 637, 659
Willson v Black-Bird Creek Marsh Co (1829)	475
Wilson v Anderson (2002)	114
Wilson v Minister for Aboriginal and Torres Strait Islander Affairs (1996)	562, 568, 593
Woods v Multi-Sport Holdings Pty Ltd (2002)	344, 378, 399

TABLE OF CASES CITED

Work Choices Case (New South Wales v The Commonwealth) (2006)	553, 585, 623, 631, 632
Wright v Hale (1860)	14
Wyong Shire Council v Shirt (1980) .	338, 350, 353, 354, 356, 371, 398, 406,
	415
Yango Pastoral Co Pty Ltd v First Chicago Australia Ltd (1978)	180
Yanner v Eaton (1999)	230, 231
Ydun, The (1899)	14
Yew Bon Tew v Kenderaan Bas Maria (1982)	14, 15, 23
Zentai v Republic of Hungary (2006)	620, 632, 636, 637, 655
Zentai v Republic of Hungary (2007)	611, 620, 632, 637, 655
Zickar v MGH Plastic Industries Pty Ltd (1996)	75