

2011-2012

THE

COMMONWEALTH
LAW REPORTS

CASES DETERMINED
IN THE
HIGH COURT OF AUSTRALIA

EDITOR
J D MERRALLS, AM, QC

VOLUME 244

LAWBOOK CO.

2012

REPORTERS

M Y BEARMAN
M I BORSKY
C G BUTTON
G S CLARKE, SC
P D HERZFELD
C J HORAN
B W JELLIS
C K M LYE
A D POUND
J A REDWOOD
P T VOUT
P G WILLIS
N M WOOD
C P YOUNG

BARRISTERS

PRODUCTION EDITOR

CAROLYN MAY



THOMSON REUTERS

© 2012 Thomson Reuters (Professional) Australia Limited
Lawbook Co. ABN 64 058 914 668 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 ROBERT SHENTON FRENCH, AC, CHIEF JUSTICE

THE HONOURABLE WILLIAM MONTAGUE CHARLES GUMMOW, AC

THE HONOURABLE KENNETH MADISON HAYNE, AC

THE HONOURABLE JOHN DYSON HEYDON, AC

THE HONOURABLE SUSAN MAREE CRENNAN, AC

THE HONOURABLE SUSAN MARY KIEFEL, AC

THE HONOURABLE VIRGINIA MARGARET BELL, AC

ATTORNEY-GENERAL

THE HONOURABLE ROBERT BRUCE McCLELLAND, MP

THE HONOURABLE NICOLA ROXON, MP

(from 14 December 2011)

MEMORANDUM

2012

January 26 — THE HONOURABLE VIRGINIA MARGARET BELL, a Justice of the High Court of Australia, was appointed a Companion in the General Division of the Order of Australia.

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

**TABLE OF CASES REPORTED
IN THIS VOLUME**

AB v Western Australia	390
ACTEW Corporation Ltd; Queanbeyan City Council v	530
AH v Western Australia	390
Australian Crime Commission v Stoddart	554
Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd	1
Bargwanna; Federal Commissioner of Taxation v	655
BHP Billiton Ltd; Federal Commissioner of Taxation v	325
BHP Billiton Minerals Pty Ltd; Federal Commissioner of Taxation v	325
BHP Billiton Petroleum (North West Shelf) Pty Ltd; Federal Commissioner of Taxation v	325
Broken Hill Pty Co Ltd; Federal Commissioner of Taxation v	325
Bui v Director of Public Prosecutions (Cth)	638
Coinvest Ltd; Jemena Asset Management (3) Pty Ltd v	508
Commonwealth, The; Haskins v	22
Commonwealth, The; Nicholas v	66
Firedam Civil Engineering Pty Ltd; Shoalhaven City Council v	305
Gordian Runoff Ltd; Westport Insurance Corporation v	239
Green v The Queen	462
Haskins v The Commonwealth	22
HIH Claims Support Ltd v Insurance Australia Ltd	72
Immigration and Citizenship, Minister for; Plaintiff M70/2011 v	144
Immigration and Citizenship, Minister for; Plaintiff M106/2011 v	144
Insurance Australia Ltd; HIH Claims Support Ltd v	72
Jackson; Lithgow City Council v	352
Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
Lanepoint Enterprises Pty Ltd; Australian Securities and Investments Commission v	1
Lithgow City Council v Jackson	352

TABLE OF CASES REPORTED

Michael Wilson & Partners Ltd v Nicholls	427
Muldrock v The Queen	120
Nicholas v The Commonwealth	66
Nicholls; Michael Wilson & Partners Ltd v	427
Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
Plaintiff M106/2011 v Minister for Immigration and Citizenship	144
Poniatowska; Director of Public Prosecutions (Cth) v	408
Public Prosecutions (Cth), Director of; Bui v	638
Public Prosecutions (Cth), Director of v Poniatowska	408
Queanbeyan City Council v ACTEW Corporation Ltd	530
Quinn v The Queen	462
R; Green v	462
R; Muldrock v	120
R; Quinn v	462
Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
Shoalhaven City Council v Firedam Civil Engineering Pty Ltd	305
Stoddart; Australian Crime Commission v	554
Taxation, Federal Commissioner of v Bargwanna	655
Taxation, Federal Commissioner of v BHP Billiton Ltd	325
Taxation, Federal Commissioner of v BHP Billiton Minerals Pty Ltd	325
Taxation, Federal Commissioner of v BHP Billiton Petroleum (North West Shelf) Pty Ltd	325
Taxation, Federal Commissioner of v Broken Hill Pty Co Ltd	325
Taxation, Federal Commissioner of; Roy Morgan Research Pty Ltd v	97
Western Australia; AB v	390
Western Australia; AH v	390
Westport Insurance Corporation v Gordian Runoff Ltd	239

TABLE OF CASES JUDICIALLY CONSIDERED IN CASES REPORTED IN THIS VOLUME

<i>Angel v Hawkesbury City Council</i> [2008] Aust Torts Reports 81-955 at 61,756-61,758	
Referred to. Lithgow City Council v Jackson	352
<i>Anthony Hordern & Sons Ltd v Amalgamated Clothing and Allied Trades Union of Australia</i> (1932) 47 CLR 1	
Applied. Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
<i>Australian Capital Territory v Queanbeyan City Council</i> (2010) 188 FCR 541	
Affirmed. Queanbeyan City Council v ACTEW Corporation Ltd	530
<i>Australian Securities and Investments Commission v Rich</i> (2005) 191 FLR 385 at 434-436; 216 ALR 320 at 367-369	
Disapproved. Lithgow City Council v Jackson	352
<i>Australian Tape Manufacturers Association Ltd v The Commonwealth</i> (1993) 176 CLR 480	
Applied. Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
<i>Bargwanna v Federal Commissioner of Taxation</i> (2010) 191 FCR 184	
Reversed. Federal Commissioner of Taxation v Bargwanna	655
<i>Barton v Walker</i> [1979] 2 NSWLR 740	
Disapproved. Michael Wilson & Partners Ltd v Nicholls	427
<i>Baumer v The Queen</i> (1988) 166 CLR 51 at 57-58	
Referred to. Muldrock v The Queen	120
<i>Bremer Handelsgesellschaft mbH v Westzucker GmbH [No 2]</i> [1981] 2 Lloyd's Rep 130	
Considered. Westport Insurance Corporation v Gordian Runoff Ltd	239
<i>Caledonia North Sea Ltd v London Bridge Engineering Ltd</i> 2000 SLT 1123 at 1182	
Approved. HIH Claims Support Ltd v Insurance Australia Ltd	72
<i>Callanan v B</i> [2005] 1 Qd R 348	
Overruled. Australian Crime Commission v Stoddart	554
<i>Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs</i> (1992) 176 CLR 1	
Considered. Haskins v The Commonwealth	22
<i>Daniels v Western Australia</i> (2000) 178 ALR 542 at 546-547	
Referred to. Lithgow City Council v Jackson	352
<i>Dickson v The Queen</i> (2010) 241 CLR 491 at 502	
Applied. Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
<i>Federated Amalgamated Government Railway and Tramway Service Association v New South Wales Railway Traffic Employes Association</i> (1906) 4 CLR 488	
Referred to. Queanbeyan City Council v ACTEW Corporation Ltd	530
<i>Friend v Brooker</i> (2009) 239 CLR 129 at 148, 151	
Applied. HIH Claims Support Ltd v Insurance Australia Ltd	72

TABLE OF CASES JUDICIALLY CONSIDERED

<i>Gordian Runoff Ltd v Westport Insurance Corporation</i> (2010) 267 ALR 74	
Reversed. <i>Westport Insurance Corporation v Gordian Runoff Ltd</i>	239
<i>Groves v The Commonwealth</i> (1982) 150 CLR 113	
Considered. <i>Haskins v The Commonwealth</i>	22
<i>Guide Dog Owners' & Friends' Association Inc v Guide Dog Association (NSW and ACT)</i> (1998) 154 ALR 527 at 531	
Referred to. <i>Lithgow City Council v Jackson</i>	352
<i>Haskins v The Commonwealth</i> (2011) 244 CLR 22	
Applied. <i>Nicholas v The Commonwealth</i>	66
<i>Heddon v Evans</i> (1919) 35 TLR 642	
Considered. <i>Haskins v The Commonwealth</i>	22
<i>HIH Claims Support Ltd v Insurance Australia Ltd</i> (2010) 16 ANZ Insurance Cases 61-863	
Affirmed. <i>HIH Claims Support Ltd v Insurance Australia Ltd</i>	72
<i>Immigration and Multicultural and Indigenous Affairs, Minister for v Nystrom</i> (2006) 228 CLR 566	
Considered. Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
<i>IW v City of Perth</i> (1997) 191 CLR 1	
Applied. AB v Western Australia	390
<i>Jemena Asset Management Pty Ltd v Coinvest Ltd</i> (2009) 180 FCR 576	
Affirmed. <i>Jemena Asset Management (3) Pty Ltd v Coinvest Ltd</i>	508
<i>Johnson v Johnson</i> (2000) 201 CLR 488	
Applied. Michael Wilson & Partners Ltd v Nicholls	427
<i>Kanivah Holdings Pty Ltd v Holdsworth Properties Pty Ltd</i> (2002) 11 BPR 20,201 at 20,208-20,209 [61]	
Approved. Shoalhaven City Council v Firedam Civil Engineering Pty Ltd	305
<i>Keighly v Bell</i> (1866) 4 F & F 763 at 805 [176 ER 781 at 800]	
Applied. <i>Haskins v The Commonwealth</i>	22
<i>Lane v Morrison</i> (2009) 239 CLR 230	
Applied. <i>Haskins v The Commonwealth</i>	22
<i>Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed) v Australian Securities and Investments Commission</i> (2010) 78 ACSR 487	
Reversed. <i>Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)</i>	1
<i>Lowe v The Queen</i> (1984) 154 CLR 606	
Considered. <i>Green v The Queen</i>	462
<i>Mahony v Federal Commissioner of Taxation</i> (1967) 41 ALJR 232 at 237, 238	
Applied. <i>Federal Commissioner of Taxation v Bargwanna</i>	655
<i>Markarian v The Queen</i> (2005) 228 CLR 357 at 378	
Referred to. <i>Muldrock v The Queen</i>	120
<i>McLean, Ex parte</i> (1930) 43 CLR 472 at 483-486	
Applied. <i>Jemena Asset Management (3) Pty Ltd v Coinvest Ltd</i>	508

TABLE OF CASES JUDICIALLY CONSIDERED

ix

<i>McNamara v Consumer Trader and Tenancy Tribunal</i> (2005) 221 CLR 646	
Referred to. Queanbeyan City Council v ACTEW Corporation Ltd	530
<i>Natoli v Walker</i> (1994) (1994) 217 ALR 201	
Disapproved. Westport Insurance Corporation v Gordian Runoff Ltd	239
<i>Nicholls v Michael Wilson & Partners Ltd</i> (2010) 243 FLR 177	
Varied. Michael Wilson & Partners Ltd v Nicholls	427
<i>Northern Suburbs General Cemetery Reserve Trust v The Commonwealth</i> (1993)	
176 CLR 555	
Considered. Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
<i>NT Power Generation Pty Ltd v Power and Water Authority</i> (2004) 219 CLR 90	
Referred to. Queanbeyan City Council v ACTEW Corporation Ltd	530
<i>Oil Basins Ltd v BHP Billiton Ltd</i> (2007) 18 VR 346	
Disapproved in part. Westport Insurance Corporation v Gordian Runoff Ltd	239
<i>Parker v The Commonwealth</i> (1965) 112 CLR 295	
Considered. Haskins v The Commonwealth	22
<i>Plaintiff M61/2010E v The Commonwealth</i> (2010) 243 CLR 319	
Considered. Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
<i>Polyukhovich v The Commonwealth (War Crimes Act Case)</i> (1991) 172 CLR 501	
Considered. Haskins v The Commonwealth	22
<i>Poniatowska v Director of Public Prosecutions (Cth)</i> (2010) 107 SASR 578	
Affirmed. Director of Public Prosecutions (Cth) v Poniatowska	408
<i>Public Prosecutions (Cth), Director of v De La Rosa</i> (2010) 79 NSWLR 1	
Considered. Bui v Director of Public Prosecutions (Cth)	638
<i>QBS Pty Ltd, In re</i> [1967] Qd R 218 at 225	
Applied. Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)	1
<i>R v Gee</i> (2003) 212 CLR 230 at 254	
Applied. Bui v Director of Public Prosecutions (Cth)	638
<i>R v Green</i> (2010) 207 A Crim R 148	
Reversed. Green v The Queen	462
<i>R v Harris</i> (1988) 17 NSWLR 158	
Considered. AB v Western Australia	390
<i>R v Inhabitants of All Saints, Worcester</i> (1817) 6 M & S 194 at 200-201 [105 ER 1215 at 1217-1218]	
Explained. Australian Crime Commission v Stoddart	554
<i>R v Mooney</i> (unreported, Court of Criminal Appeal (Vic), 21 June 1978) at 8	
Approved. Muldrock v The Queen	120
<i>R v Tait</i> (1979) 46 FLR 386; 24 ALR 473	
Distinguished. Bui v Director of Public Prosecutions (Cth)	638
<i>R v Tisalandis</i> [1982] 2 NSWLR 430 at 435	
Considered. Green v The Queen	462
<i>R v Way</i> (2004) 60 NSWLR 168	
Overruled. Muldrock v The Queen	120

TABLE OF CASES JUDICIALLY CONSIDERED

<i>Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation</i> (2010) 184 FCR 448	
Affirmed. <i>Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation</i>	97
<i>Ruabon Steamship Co Ltd v London Assurance</i> [1900] AC 6 at 12	
Approved. <i>HIH Claims Support Ltd v Insurance Australia Ltd</i>	72
<i>S v Boulton</i> (2006) 151 FCR 364	
Overruled. <i>Australian Crime Commission v Stoddart</i>	554
<i>SGH Ltd v Federal Commissioner of Taxation</i> (2002) 210 CLR 51	
Referred to. <i>Queanbeyan City Council v ACTEW Corporation Ltd</i>	530
<i>Smith v The Queen</i> (2001) 206 CLR 650 at 669-670	
Referred to. <i>Lithgow City Council v Jackson</i>	352
<i>Social Security, Secretary, Department of v SRA</i> (1993) 43 FCR 299	
Considered. <i>AB v Western Australia</i>	390
<i>South Australia v The Commonwealth (First Uniform Tax Case)</i> (1942) 65 CLR 373	
Applied. <i>Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation</i>	97
<i>Stoddart v Boulton</i> (2010) 185 FCR 409	
Reversed. <i>Australian Crime Commission v Stoddart</i>	554
<i>Taxation, Deputy Commissioner of v State Bank (NSW)</i> (1992) 174 CLR 219	
Referred to. <i>Queanbeyan City Council v ACTEW Corporation Ltd</i>	530
<i>Taxation, Federal Commissioner of v BHP Billiton Finance Ltd</i> (2010) 182 FCR 526	
Affirmed. <i>Federal Commissioner of Taxation v BHP Billiton Minerals Pty Ltd</i>	326
<i>Taxation, Federal Commissioner of v Word Investments Ltd</i> (2008) 236 CLR 204	
Distinguished. <i>Federal Commissioner of Taxation v Bargwanna</i>	655
<i>Telstra Corporation Ltd v Worthing</i> (1999) 197 CLR 61 at 76	
Applied. <i>Jemena Asset Management (3) Pty Ltd v Coinvest Ltd</i>	508
<i>Veen v The Queen [No 2]</i> (1988) 164 CLR 465 at 472	
Referred to. <i>Muldrock v The Queen</i>	120
<i>Victoria v The Commonwealth (Kakariki Case)</i> (1937) 58 CLR 618 at 630	
Applied. <i>Jemena Asset Management (3) Pty Ltd v Coinvest Ltd</i>	508
<i>WACB v Minister for Immigration and Multicultural and Indigenous Affairs</i> (2004) 79 ALJR 94; 210 ALR 190	
Considered. <i>Plaintiff M70/2011 v Minister for Immigration and Citizenship</i>	144
<i>Waters v Public Transport Corporation</i> (1991) 173 CLR 349	
Applied. <i>AB v Western Australia</i>	390
<i>Western Australia v AH</i> (2010) 41 WAR 431	
Reversed. <i>AB v Western Australia</i>	390
<i>White v Director of Military Prosecutions</i> (2007) 231 CLR 570	
Considered. <i>Haskins v The Commonwealth</i>	22

STATUTES, RULES, ETC JUDICIALLY CONSIDERED

COMMONWEALTH CONSTITUTION

Ch III: Haskins v The Commonwealth	22
Ch III: Nicholas v The Commonwealth	66
s 51(ii): Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 51(vi): Haskins v The Commonwealth	22
s 51(vi): Nicholas v The Commonwealth	66
s 51(xxi): Haskins v The Commonwealth	22
s 51(ii): Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 81: Queanbeyan City Council v ACTEW Corporation Ltd	530
s 109: Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
s 122: Queanbeyan City Council v ACTEW Corporation Ltd	530

COMMONWEALTH

Australian Capital Territory (Self-Government) Act 1988

Pt III: Queanbeyan City Council v ACTEW Corporation Ltd	530
Pt IV: Queanbeyan City Council v ACTEW Corporation Ltd	530
Pt VII: Queanbeyan City Council v ACTEW Corporation Ltd	530
Sch 4: Queanbeyan City Council v ACTEW Corporation Ltd	530

Australian Crime Commission Act 2002

s 24A: Australian Crime Commission v Stoddart	554
s 28(1): Australian Crime Commission v Stoddart	554
s 30(2): Australian Crime Commission v Stoddart	554

Corporations Act 2001

s 459A: Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)	1
s 459C: Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)	1
s 459P: Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)	1
s 459S: Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)	1
s 467: Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed)	1

Crimes Act 1914

s 16A: Bui v Director of Public Prosecutions (Cth)	638
--	-----

Criminal Code

s 4.1(2): Director of Public Prosecutions (Cth) v Poniatowska	408
s 4.3(a): Director of Public Prosecutions (Cth) v Poniatowska	408
s 135.2(1): Director of Public Prosecutions (Cth) v Poniatowska	408

Defence Force Discipline Act 1982

Pt VIIIA: Haskins v The Commonwealth	22
Pt VIIIA: Nicholas v The Commonwealth	66
s 3: Haskins v The Commonwealth	22
s 3: Nicholas v The Commonwealth	66

s 27: Haskins v The Commonwealth	22
s 27: Nicholas v The Commonwealth	66
s 68: Haskins v The Commonwealth	22
s 68: Nicholas v The Commonwealth	66
s 170: Haskins v The Commonwealth	22
s 170: Nicholas v The Commonwealth	66
Immigration (Guardianship of Children) Act 1946	
s 6A: Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
Income Tax Assessment Act 1997	
s 50-1: Federal Commissioner of Taxation v Bargwanna	655
s 50-5 item 1.5B: Federal Commissioner of Taxation v Bargwanna	655
s 50-60: Federal Commissioner of Taxation v Bargwanna	655
s 243-20: Federal Commissioner of Taxation v BHP Billiton Ltd	325
Judiciary Act 1903	
s 68(1): Bui v Director of Public Prosecutions (Cth)	638
s 79(1): Bui v Director of Public Prosecutions (Cth)	638
s 80: Bui v Director of Public Prosecutions (Cth)	638
Migration Act 1958	
s 198A: Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
s 198A(1): Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
s 198A(3): Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
s 198A(3)(a): Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
s 198(2): Plaintiff M70/2011 v Minister for Immigration and Citizenship	144
Military Justice (Interim Measures) Act (No 2) 2009	
Pt 7: Haskins v The Commonwealth	22
Pt 7: Nicholas v The Commonwealth	66
Sch 1, items 3, 4, 5: Haskins v The Commonwealth	22
Sch 1, items 3, 4, 5: Nicholas v The Commonwealth	66
Social Security Act 1991	
s 1068A: Director of Public Prosecutions (Cth) v Poniatowska	408
Superannuation Guarantee (Administration) Act 1992	
s 9: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 22: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 23: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 63A: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 63B: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 71: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
Superannuation Guarantee Charge Act 1992	
s 5: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
s 6: Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation	97
Workplace Relations Act 1996	
s 17(1): Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
s 152(1): Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
s 170LZ(1): Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508

AUSTRALIAN CAPITAL TERRITORY

Territory-owned Corporations Act 1990

s 6: Queanbeyan City Council v ACTEW Corporation Ltd	530
--	-----

STATUTES, RULES, ETC JUDICIALLY CONSIDERED	xiii
s 8: Queanbeyan City Council v ACTEW Corporation Ltd	530
Utilities (Network Facilities Tax) Act 2006	
s 8(1): Queanbeyan City Council v ACTEW Corporation Ltd	530
Water Resources Act 2007	
s 7: Queanbeyan City Council v ACTEW Corporation Ltd	530
s 31: Queanbeyan City Council v ACTEW Corporation Ltd	530
s 77A: Queanbeyan City Council v ACTEW Corporation Ltd	530
s 107: Queanbeyan City Council v ACTEW Corporation Ltd	530
 NEW SOUTH WALES	
Commercial Arbitration Act 1984	
s 29: Westport Insurance Corporation v Gordian Runoff Ltd	239
s 38: Westport Insurance Corporation v Gordian Runoff Ltd	239
Crimes (Sentencing Procedure) Act 1999	
s 21A: Muldrock v The Queen	120
s 44(2): Muldrock v The Queen	120
s 54A(2): Muldrock v The Queen	120
s 54B: Muldrock v The Queen	120
Criminal Appeal Act 1912	
s 5D: Green v The Queen	462
Evidence Act 1995	
s 69: Lithgow City Council v Jackson	352
s 76: Lithgow City Council v Jackson	352
s 78: Lithgow City Council v Jackson	352
Insurance Act 1902	
s 18B: Westport Insurance Corporation v Gordian Runoff Ltd	239
 VICTORIA	
Construction Industry Long Service Leave Act 1997	
s 4: Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
s 6: Jemena Asset Management (3) Pty Ltd v Coinvest Ltd	508
Criminal Procedure Act 2009	
s 289(2): Bui v Director of Public Prosecutions (Cth)	638
s 290(3): Bui v Director of Public Prosecutions (Cth)	638
 WESTERN AUSTRALIA	
Gender Reassignment Act 2000	
s 3 reassignment procedure: AB v Western Australia	390
s 14(1): AB v Western Australia	390
s 15(1)(b): AB v Western Australia	390

TABLE OF CASES CITED IN THE JUDGMENTS

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

A v Hayden (1984)	567
A v New South Wales (2007)	46
AB & AH v Gender Reassignment Board (WA) (2009)	399, 400, 404
Aboriginal Affairs, Minister for v Peko-Wallsend Ltd (1986)	215
Adam P Brown Male Fashions Pty Ltd v Philip Morris Inc (1981)	451
Age Old Builders Pty Ltd v Swintons Pty Ltd (2003)	315
Air Caledonie International v The Commonwealth (1988)	104, 110, 119
Airlines Nationalisation Case (Australian National Airways Pty Ltd v The Commonwealth) (1945)	204
Airservices Australia v Canadian Airlines International Ltd (2000)	104, 111
Al-Rahal v Minister for Immigration and Multicultural Affairs (2001)	205, 206, 210
Al-Zafiry v Minister for Immigration and Multicultural Affairs (1999)	197, 210, 211
Albion Insurance Co Ltd v Government Insurance Office (NSW) (1969)	86-88, 456
Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue (2009)	340, 527
Allstate Life Insurance Co v Australia & New Zealand Banking Group Ltd [No 5] (1996)	359
Amaca Pty Ltd v Ellis (2010)	383
AMP Workers Compensation Services Ltd v QBE Insurance Ltd (2001)	84
Angel v Hawkesbury City Council (2008)	369
Anonymous (1709)	567
Ansett Transport Industries (Operations) Pty Ltd v Wardley (1980)	525
Anthony Hordern & Sons Ltd v Amalgamated Clothing and Allied Trades Union of Australia (1932)	176, 177, 186, 187, 230
APLA Ltd v Legal Services Commissioner (NSW) (2005)	199
Arab Monetary Fund v Hashim [No 2] (1990)	577
Argyll v Argyll (1964)	567
Army, Minister of State for v Dalziel (1944)	41
Associated Alloys Pty Ltd v ACN 001 452 106 Pty Ltd (In liq) (2000)	661
Attorney-General (Cth) v Schmidt (1961)	41
Attorney-General (Eng) v Clough (1963)	578, 579
Attorney-General (Eng) v Kelly [No 2] (1915)	612
Attorney-General (Eng) v Mulholland (1963)	578, 579
Attorney-General (NSW) v Homebush Flour Mills Ltd (1937)	107, 108
Attorney-General (NSW) v Perpetual Trustee Co (Ltd) (1940)	666, 668
Attorney-General (NSW) v Quin (1990)	158
Attorney-General (NZ) v Family Court at Otahuhu (1994)	396
Attorney-General (St Christopher, Nevis & Anguilla) v Reynolds (1979)	491
Aussie Vic Plant Hire Pty Ltd v Esanda Finance Corporation Ltd (2008)	13
Australian Boot Trade Employés Federation v Whybrow & Co (1910)	525
Australian Broadcasting Commission v Industrial Court (SA) (1977)	524
Australian Capital Territory v Queanbeyan City Council (2010)	537, 541, 542, 547
Australian Communist Party v The Commonwealth (1951)	37

TABLE OF CASES CITED

xv

Australian Heritage Commission v Mount Isa Mines Ltd (1997)	179
Australian National Airways Pty Ltd v The Commonwealth (Airlines Nationalisation Case) (1945)	204
Australian National Industries Ltd v Spedley Securities Ltd (In liq) (1992)	450
Australian Provincial Assurance Association Ltd v Producers and Citizens Co-operative Assurance Co of Australia Ltd (1932)	301
Australian Securities and Investments Commission v Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed) [No 2] (2009) .. 8, 12, 16-19	
Australian Securities and Investments Commission v Rich (2005)	362
Australian Securities and Investments Commission v United Investment Funds Pty Ltd (2003)	613
Australian Tape Manufacturers Association Ltd v The Commonwealth (1993)	104, 105, 107, 110, 113, 119
Avco Financial Services Ltd v Federal Commissioner of Taxation (1982) .	336
Aveson v Lord Kinnaird (1805)	567
Bargwanna v Federal Commissioner of Taxation (2010)	664, 668, 672
Barker v Dixie (1736)	626
Barton v Walker (1979)	450, 461
Bass v Permanent Trustee Co Ltd (1999)	652
Batistatos v Roads and Traffic Authority (NSW) (2006)	452
Baumer v The Queen (1988)	140
Baxter v Obacelo Pty Ltd (2001)	455
Bayside City Council v Telstra Corporation Ltd (2004)	517
Bell v Klein (1953)	612
Bennett & Wood Ltd v Orange City Council (1967)	490
Bennett v Minister for Community Welfare (1992)	385
Bent v Allot (1580)	626
Bentley v Cooke (1784)	582, 631
Berwick Ltd v Gray (1976)	537, 538
BHP Billiton Finance Ltd v Federal Commissioner of Taxation (2009)	336-338, 343-345, 349
Blaauwput v Da Costa (1758)	90
Blackley v Devondale Cream (Vic) Pty Ltd (1968)	524, 526
Blair v Curran (1939)	19
Blunden v The Commonwealth (2003)	653
Bond v The Queen (2000)	42
Bonnington Castings Ltd v Wardlaw (1956)	385
Bottomley, Ex parte (1909)	595
BP Petroleum Development Ltd v Esso Petroleum Co Ltd (1987)	88, 89
Bradshaw v McEwans Pty Ltd (1951)	385
Brebner v Perry (1961)	576
Bremer Handelsgesellschaft mbH v Westzucker GmbH [No 2] (1981)	269,
	271, 297, 303, 316
Brinds Ltd v Offshore Oil NL (1985)	11, 12
British American Tobacco Australia Services Ltd v Laurie (2011)	437, 448
British Steel Corporation v Granada Television Ltd (1981)	579, 580
Brooks v The Upjohn Co (1998)	450
Brown (Adam P) Male Fashions Pty Ltd v Philip Morris Inc (1981)	451

TABLE OF CASES CITED

Buchanan, Re (1964)	579, 580
Bugmy v The Queen (1990)	140
Burdett v Abbot (1811)	44
Burke v LFOT Pty Ltd (2002)	89, 94, 456
Burnand v Rodocanachi Sons & Co (1882)	90, 91
Byrnes v Kindle (2011)	279
Cabell v Markham (1945)	340
Cachia v Westpac Financial Services Ltd (2000)	662
Caledonia North Sea Ltd v London Bridge Engineering Ltd (1999)	88
Caledonia North Sea Ltd v London Bridge Engineering Ltd (2002)	84, 85, 87, 88
Caledonian Railway Co v Colt (1860)	88
Callanan v B (2004)	565, 570, 602, 608, 614, 620, 622
Canwest Global Communications Corporation v Australian Broadcasting Authority (1998)	339
Capital Duplicators Pty Ltd v Australian Capital Territory (1992)	107, 538
Capricorn Inks Pty Ltd v Lawter International (A/asia) Pty Ltd (1989)	318
Carter v Boehm (1766)	374
Cartwright v Green (1803)	588-594, 599, 629
Carus-Wilson and Greene's Arbitration, In re (1886)	315
CDJ v VAJ (1998)	577
Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs (1992)	35, 37, 39, 57, 58, 192
CIC Insurance Ltd v Bankstown Football Club Ltd (1997)	299, 339, 398
Clunies-Ross v The Commonwealth (1984)	105
Clutha Developments Pty Ltd v Barry (1989)	490
Clyde Engineering Co Ltd v Cowburn (1926)	516, 524
Clyne v The Queen (1985)	576
Co-operative Committee on Japanese Canadians v Attorney-General (Can) (1947)	523
Coburn v Human Rights Commission (1994)	402
Cockburn v GIO Finance Ltd [No 2] (2001)	88
Coco v The Queen (1994)	619
Coleman v Power (2004)	35, 234
Collins v Charles Marshall Pty Ltd (1955)	516, 525, 528
Colonel Aird, Re; Ex parte Alpert (2004)	35, 44
Colvin v Bradley Bros Pty Ltd (1943)	516, 524
Commercial & General Insurance Co Ltd v Government Insurance Office (NSW) (1973)	88, 92
Commonwealth, The v Baume (1905)	192
Commonwealth, The v Colonial Combing, Spinning and Weaving Co Ltd (Wool Tops Case) (1922)	103, 523
Compass Group (Australia) Pty Ltd v Bartram (2007)	522
Compton v Federal Commissioner of Taxation (1966)	667, 672
Concrete Constructions Pty Ltd v Plumbers and Gasfitters Employees' Union (1987)	603
Concrete Pty Ltd v Parramatta Design & Developments Pty Ltd (2006) ..	437
Connex Group Australia Pty Ltd v Butt (2004)	362, 369, 376
Consul Development Pty Ltd v DPC Estates Pty Ltd (1975)	457, 458

TABLE OF CASES CITED

xvii

Controlled Consultants Pty Ltd v Commissioner for Corporate Affairs (1985)	603, 627
Cook v Cook (1986)	574
Corbett v Corbett (1971)	396
Cornell v Green (1823)	371
Craig v South Australia (1995)	237
Craythorne v Swinburne (1807)	88
Cretanor Maritime Co Ltd v Irish Marine Management Ltd (1978)	439
Cvitanić v The Queen (2009)	479
 D v National Society for Prevention of Cruelty to Children (1978) ..	577, 578
Daniels v Western Australia (2000)	371
Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission (2002)	615, 623
Dao v Australian Postal Commission (1987)	517
Dasreef Pty Ltd v Hawchar (2011)	370
Davern v Messel (1984)	649
David Grant & Co Pty Ltd v Westpac Banking Corporation (1995)	7
Davies v Perpetual Trustees Executors and Agency Co of Tasmania Ltd (1935)	666
Dawdy and Hartcup, In re (1885)	315
Dawkins v Lord Paulet (1869)	46
Dawkins v Lord Rokeby (1866)	46
Dawkins v Lord Rokeby (1873)	46
Dean v Prince (1953)	315
Dean v Prince (1954)	315
Dering v Earl of Winchelsea (1787)	87
DF Lyons Pty Ltd v Commonwealth Bank of Australia (1991)	577
Dickson v The Queen (2010)	524, 526
Doe d Earl of Egremont v Date (1842)	576
Donoghue v Stevenson (1932)	573, 608
Driclad Pty Ltd v Federal Commissioner of Taxation (1966)	276, 672
Driscoll v The Queen (1977)	577
 Eagle Star Insurance Co Ltd v Yuval Insurance Co Ltd (1977)	280, 281
Ebner v Official Trustee in Bankruptcy (2000)	437, 445, 451
Eedens v The Queen (2009)	126
Electrolux Home Products Pty Ltd v Australian Workers Union (2004)	622
Elyard v The Queen (2006)	129
Enfield City Corporation v Development Assessment Commission (2000)	179, 194, 195, 222
Environment Protection Authority v Caltex Refining Co Pty Ltd (1993) .	564,
	588
Equiticorp Industries Ltd v ACI International Ltd (1986)	341
Everett v The Queen (1994)	465, 500
 Fairfax v Federal Commissioner of Taxation (1965)	104, 115, 116
Falcke v Scottish Imperial Insurance Co (1886)	86
Farah Constructions Pty Ltd v Say-Dee Pty Ltd (2007)	457
Farrugia v The Queen (2011)	474

TABLE OF CASES CITED

Federated Amalgamated Government Railway and Tramway Service Association v New South Wales Railway Traffic Employees Association (1906)	542
Fidelitas Shipping Co Ltd v V/O Exportchleb (1966)	449
Firedam Civil Engineering Pty Ltd v Shoalhaven City Council (2009)	307, 309, 310, 313, 320, 324
Firedam Civil Engineering Pty Ltd v Shoalhaven City Council (2010)	307, 314, 315, 318, 319
Flanagan v HC Buckman & Son Pty Ltd (1972)	490
Flynn v Commissioner of Stamp Duties (NSW) (1975)	666
Fouche v Superannuation Fund Board (1952)	661
Fox v Percy (2003)	388
Fraser v Balfour (1918)	45
Friend v Brooker (2009)	89, 90, 94, 456
Gallie v Lee (1969)	491
Garland v Jekyll (1824)	608
Gas & Fuel Corporation Superannuation Fund v Saunders (1994)	450
General Steel Industries Inc v Commissioner for Railways (NSW) (1964)	542
Georgiadis v Australian and Overseas Telecommunications Corporation (1994)	41
Gerlach v Clifton Bricks Pty Ltd (2002)	449, 451
Gett v Tabet (2009)	491
Gibbons v Duffell (1932)	45, 46
Gilson v The Queen (1991)	133
Goddard v The Queen (1999)	476
Gordian Runoff Ltd v Westport Insurance Corporation (2010)	256, 259, 267-269, 273, 276, 287, 293, 295-297, 299, 303
Gosselin v The King (1903)	612
Government Insurance Office (NSW) v Crowley (1975)	88
Graham Barclay Oysters Pty Ltd v Ryan (2002)	180
Green v United States (1957)	649
Griffiths v Minister for Lands, Planning and Environment (2008)	105
Griffiths v The Queen (1977)	465, 500
Groves v The Commonwealth (1982)	41, 45, 46
Guide Dog Owners' & Friends' Association Inc v Guide Dog Association (NSW and ACT) (1998)	359, 371, 376
Halifax Life Ltd v Equitable Life Assurance Society (2007)	316
Hamilton v Oades (1989)	452
Hampton (JW) Jr & Co v United States (1928)	105
Haskins v The Commonwealth (2011)	70
Hawkins v Sturt (1992)	571, 613, 619
Heart Research Institute Ltd v Psiron Ltd (2002)	315
Heddon v Evans (1919)	44-46
Hervey Bay (JV) Pty Ltd v Civil Mining and Construction Pty Ltd (2008)	323
Heydon's Case (1584)	528

TABLE OF CASES CITED

xix

HIH Casualty and General Insurance Ltd v Insurance Australia Ltd [No 2] (2006)	83
HIH Casualty and General Insurance Ltd (In liq) v Wallace (2006)	293
HIH Claims Support Ltd v Insurance Australia Ltd (2009)	83-85, 93
HIH Claims Support Ltd v Insurance Australia Ltd (2010)	85, 86
Hili v The Queen (2010)	473, 651
Hill v Mercantile & General Reinsurance Co Plc (1996)	300
Hindmarsh Island Bridge Act Case (Kartinyeri v The Commonwealth) (1998)	234
Holloway v McFeeters (1956)	385
Holt v Cox (1997)	316, 319
Hoskyn v Metropolitan Police Commissioner (1978)	566, 571, 583, 584, 589, 603, 610, 612, 616, 624-626, 628, 629, 631-635
Hospital Benefits Case (New South Wales v The Commonwealth) (1983) .	529
Houston v Wittner's Pty Ltd (1928)	595
Hughes and Vale Pty Ltd v New South Wales (1954)	204
Ibbs v The Queen (1987)	133
Ibrahim v The King (1914)	577
Immigration and Ethnic Affairs, Minister for v Mayer (1985)	224-226
Immigration and Ethnic Affairs, Minister for v Teoh (1995)	234
Immigration and Ethnic Affairs, Minister for v Wu Shan Liang (1996)	158
Immigration and Multicultural Affairs, Minister for v Al-Sallal (1999)	197, 206, 210
Immigration and Multicultural Affairs, Minister for v Eshetu (1999) .	180, 194
Immigration and Multicultural Affairs, Minister for v Khawar (2002)	207
Immigration and Multicultural Affairs, Minister for v Thiyagarajah (1997)	211
Immigration and Multicultural Affairs, Minister for v Yusuf (2001) ..	180, 237
Immigration and Multicultural and Indigenous Affairs, Minister for v Nystrom (2006)	177, 187, 188, 215, 231
Immigration and Multicultural and Indigenous Affairs, Minister for v QAAH of 2004 (2006)	207
Immigration and Multicultural and Indigenous Affairs, Minister for, Re; Ex parte Lam (2003)	234
Independent Commission Against Corruption v Cornwall (1993)	579
Industrial Relations Act Case (Victoria v The Commonwealth) (1996)	41
Inland Revenue Commissioners v Herdman (1968)	343
Insight Vacations Pty Ltd v Young (2011)	257
Insurance Australia Ltd v HIH Casualty & General Insurance Ltd (In liq) (2007)	83, 93
Intercontinental Development Corporation Pty Ltd, Re (1975)	612
International Finance Trust Co Ltd v New South Wales Crime Commission (2009)	35, 37
IW v City of Perth (1997)	402
Jackson v Lithgow City Council (2008)	359, 365, 366, 381
Jackson v Lithgow City Council (2010) ...	360, 366-368, 372, 374, 375, 378, 379, 387
Jemena Asset Management (3) Pty Ltd v Coinvest Ltd (2009) .	515, 521, 522
Jemena Asset Management Pty Ltd v Coinvest Ltd (2009) .	515, 518, 521-523

TABLE OF CASES CITED

Jimmy v The Queen (2010)	474, 499, 502-504
John Alexander's Clubs Pty Ltd v White City Tennis Club Ltd (2010)	19
John Holland Pty Ltd v Victorian Workcover Authority (2009)	517
John v Federal Commissioner of Taxation (1989)	491
Johnson v Johnson (2000)	437
Johnson v The Queen (2004)	650, 651
Jones v Dunkel (1959)	385, 386
Jumbunna Coal Mine NL v Victorian Coal Miners' Association (1908)	234
JW Hampton Jr & Co v United States (1928)	105
Kakariki Case (Victoria v The Commonwealth) (1937)	524, 528
K-Generation Pty Ltd v Liquor Licensing Court (2009)	194
Kanivah Holdings Pty Ltd v Holdsworth Properties Pty Ltd (2002) .	315, 319
Kariapper v Wijesinha (1968)	58, 59
Kartinyeri v The Commonwealth (Hindmarsh Island Bridge Act Case) (1998)	234
Kays Leasing Corporation Pty Ltd v Fletcher (1964)	257
Keighly v Bell (1866)	47
Keighery (WP) Pty Ltd v Federal Commissioner of Taxation (1957) .	340, 341
Kirk v Industrial Relations Commission of New South Wales (2010)	237
KL Tractors Ltd, Re (1954)	10
Knight v Knight (1971)	52, 53
Koowarta v Bjelke-Petersen (1982)	234
Kotsis v Kotsis (1970)	52
Krakouer v The Queen (1999)	502
Kuligowski v Metrobus (2004)	19
Kuru v New South Wales (2008)	20
Lacey v Attorney-General (Qld) (2011)	465, 471, 473
Lamb v Munster (1882)	589, 611-613
Lane v Morrison (2009)	30, 31, 36, 49, 50, 53, 55, 56, 60, 61, 63, 69
Lanepoint Enterprises Pty Ltd (Receivers and Managers Appointed) v Australian Securities and Investments Commission (2010) .	8, 9, 14, 16, 20
Latimer v Commissioner of Inland Revenue (NZ) (2004)	661
Lawson v Interior Tree Fruit and Vegetable Committee of Direction (1930)	109
Leach v The King (1912)	603, 610, 619, 633, 634
Leake v Commissioner of Taxation (WA) (1934)	110
Leeth v The Commonwealth (1992)	473
Legal & General Life of Australia Ltd v A Hudson Pty Ltd (1985) ..	316, 319
Leon Fink Holdings Pty Ltd v Australian Film Commission (1979) .	176, 187, 230
Liversidge v Anderson (1942)	194
Livesey v NSW Bar Association (1983)	437
Liyanage v The Queen (1967)	58
Lloyd v Federal Commissioner of Taxation (1955)	668
Lockwood Security Products Pty Ltd v Doric Products Pty Ltd (2004)	20
Logan Downs Pty Ltd v Federal Commissioner of Taxation (1965)	102
Logan Downs Pty Ltd v Queensland (1977)	541
Lowe v The Queen (1984)	128, 473-475, 487, 496, 497, 501-504

TABLE OF CASES CITED

xxi

Lower Mainland Dairy Products Sales Adjustment Committee v Crystal Dairy Ltd (1933)	108-110
Luton v Lessels (2002)	104, 111, 112, 118, 119
Luxton v Vines (1952)	386
Lyons (DF) Pty Ltd v Commonwealth Bank of Australia (1991)	577
M38/2002 v Minister for Immigration and Multicultural and Indigenous Affairs (2003)	206
MacCormick v Federal Commissioner of Taxation (1984)	110
Macedonian Orthodox Community Church St Petka Inc v His Eminence Petar Diocesan Bishop of Macedonian Orthodox Diocese of Australia and New Zealand (2008)	663
Macks, Re; Ex parte Saint (2000)	56
Maguire v Makaronis (1997)	663
Mahoney v Federal Commissioner of Taxation (1965)	667
Mahoney v McManus (1981)	86, 88
Mahony v Federal Commissioner of Taxation (1967)	667, 672
March v E and MH Stramare Pty Ltd (1991)	385
Markarian v The Queen (2005)	131
Markovina v The Queen [No 2] (1997)	576
Master Builders Association (NSW) v Plumbers and Gas Fitters Employees' Union of Australia (1987)	603
Matthews v Chicory Marketing Board (Vic) (1938)	107-110, 115, 541
McCarter v Brodie (1950)	204
McGuinness v Attorney-General (Vic) (1940)	579, 580
McLean, Ex parte (1930)	515, 516, 522-524
McNamara v Consumer Trader and Tenancy Tribunal (2005)	543, 544
Melbourne Harbour Trust Commissioners v Hancock (1927)	262
Meriwether v Garrett (1880)	106
Metal Trades Industry Association v Amalgamated Metal Workers' and Shipwrights' Union (1983)	517, 521, 522, 525
Metroplaza Pty Ltd v Girvan NSW Pty Ltd (In liq) (1992)	612
Michael Wilson & Partners Ltd v Nicholls (2009)	436, 457
Michael Wilson & Partners Ltd v Nicholls (2009)	436, 453, 457
Michael Wilson & Partners Ltd v Nicholls (2009)	443
Middleton v The Queen (2000)	373
Mill v The Queen (1988)	128
Miller v Miller (1978)	524
Miller v Minister of Pensions (1947)	572
Mills v Meeking (1990)	342
MLP v The Queen (2006)	126
Mood Music Publishing Co Ltd v De Wolfe Ltd (1976)	577
Moore v The Commonwealth (1951)	111, 113
Morice v Bishop of Durham (1804)	586
Morice v Bishop of Durham (1805)	586
Morris v Robinson (1824)	455
Motor Transport, Commissioner for v Antill Ranger & Co Pty Ltd (1956) .	35
NAGV and NAGW of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs (2005)	158, 189, 192, 206, 207, 224-226

TABLE OF CASES CITED

Native Title Act Case (Western Australia v The Commonwealth) (1995) ..	526
Natoli v Walker (1994)	268, 269, 301, 302
Navair Pty Ltd v Transport Workers' Union of Australia (1981)	612
NBGM v Minister for Immigration and Multicultural Affairs (2006)	207
Neat Domestic Trading Pty Ltd v AWB Ltd (2003)	343, 344
New South Wales v The Commonwealth (Work Choices Case) (2006)	538
New South Wales v The Commonwealth (Hospital Benefits Case) (1983) .	529
New World Alliance Pty Ltd, Re (1993)	612
New Zealand v Moloney (2006)	490
Newburn v The Queen (2004)	476
Newcrest Mining (WA) Ltd v The Commonwealth (1997)	538
Nguyen v Nguyen (1990)	490, 492
Nicholas v The Queen (1998)	58
Nicholls v Michael Wilson & Partners Ltd (2010) 437, 439, 444-448, 451,	453-455
Nicholson v Department of Social Welfare (1999)	418
Nolan, Re; Ex parte Young (1991)	35
Nordland Papier AG v Anti-Dumping Authority (1999)	350, 351
Northern Suburbs General Cemetery Reserve Trust v The Commonwealth (1993)	101, 112, 113, 116, 117
Northern Territory v GPAO (1999)	652
Norton v Shelby County (1886)	42
NT Power Generation Pty Ltd v Power and Water Authority (2004) .	543, 544
O'Sullivan v Noarlunga Meat Ltd (1954)	523
O'Toole v Charles David Pty Ltd (1991)	449
Oceanic Sun Line Special Shipping Co Inc v Fay (1988)	452
Oil Basins Ltd v BHP Billiton Ltd (2007)	262, 269-271, 297
Orrong Strategies Pty Ltd v Village Roadshow Ltd (2007)	343
Overbury, In re; Sheppard v Matthews (1954)	595
P1/2003 v Minister for Immigration and Multicultural and Indigenous Affairs (2003)	208, 209
Pacific Carriers Ltd v BNP Paribas (2004)	279
Pape v Federal Commissioner of Taxation (2009)	103, 105, 106, 111
Papua and New Guinea, Administration of v Daera Guba (1973)	285
Parker v The Commonwealth (1965)	44, 45
Parton v Milk Board (Vic) (1949)	107-109, 113
Patto v Minister for Immigration and Multicultural Affairs (2000) ...	197, 206, 210
Pearce v Button (1985)	577
Pearce v The Queen (1998)	128, 649
Pecora v The Queen (1979)	476
Peel v The Queen (1971)	645, 650
People v Austin (1874)	548
People v McCreery (1868)	548
Permanent Trustee Australia Ltd v Commissioner of State Revenue (Vic) (2004)	101
Pfizer Corporation v Ministry of Health (1965)	105
Pham v The Queen (2009)	502

TABLE OF CASES CITED

xxiii

Phillips v Eyre (1870)	38
Pilgrim Shipping Co Ltd v State Trading Corporation of India Ltd (The Hadjitsakos) (1974)	279
Pioneer Shipping Ltd v BTP Tioxide Ltd (1981)	265, 266, 279
Plaintiff M61/2010E v The Commonwealth (2010) ..	160, 174, 176, 189, 191, 192, 223, 228-230
Plaintiff P1/2003 v Ruddock (2007)	210
Plaintiff S157/2002 v The Commonwealth (2003)	234
Polites v The Commonwealth (1945)	234
Polyukhovich v The Commonwealth (War Crimes Act Case) (1991) ...	35, 37, 39, 57-59
Poniatowska v Director of Public Prosecutions (Cth) (2010)	412, 415, 418, 419, 425
Port of Melbourne Authority v Anshun Pty Ltd (1981)	454, 458
Postiglione v The Queen (1997)	473-475, 501-504
Potter v Minahan (1908)	622
Power v The Queen (1974)	140
Project Blue Sky Inc v Australian Broadcasting Authority (1998)	192, 298, 299, 398, 526
Promenade Investments Pty Ltd v New South Wales (1992)	264-266, 302
Public Prosecutions (Cth), Director of v Bui (2011)	646-648, 652
Public Prosecutions (Cth), Director of v De La Rosa (2010)	648, 650-652
Public Prosecutions (Cth), Director of v El Karhani (1990)	651
Public Prosecutions (Vic), Director of v Bulfin (1998)	478
Public Prosecutions (Vic), Director of v Karazisis (2010) .	471, 472, 477, 646, 650
Putland v The Queen (2004)	648
Qantas Airways Ltd v Joseland & Gilling (1986)	264
QBE Insurance (Australia) Ltd v Lumley General Insurance Ltd (2009)	84
QBS Pty Ltd, In re (1967)	11, 15
Queanbeyan City Council v ACTEW Corporation Ltd (2009)	539, 541
Queensland v The Commonwealth (1977)	491
R v Abdulla (2011)	471
R v AJP (2004)	126
R v Algar (1953)	633
R v Anderson (1980)	138, 139
R v Arnold (1993)	490
R v Baldock (2010)	648
R v Barger (1908)	103, 106, 110, 113
R v Bavin (2001)	476
R v Bevan; Ex parte Elias and Gordon (1942)	35
R v Borkowski (2009)	465, 477, 479, 490-492, 499, 500
R v Boyes (1861)	583
R v Carroll (2002)	649
R v Chen (2002)	497
R v Christie (1914)	577
R v Coote (1873)	576
R v Cox (1991)	476

TABLE OF CASES CITED

R v Cox; Ex parte Smith (1945)	35
R v Credit Tribunal; Ex parte General Motors Acceptance Corporation (1977)	517
R v Diamond (1993)	475, 476, 497
R v Djukic (2001)	476
R v Doan (2000)	497
R v Draper (1986)	475, 476
R v Elzakhem (2008)	477
R v Engert (1995)	139
R v Formosa (2005)	502, 503
R v Garbett (1847)	576
R v Gee (2003)	652
R v Green (2010) ..466-468, 478, 479, 483-485, 487-490, 493, 499, 500, 505	468
R v Green (2011)	468
R v Guthrie (2002)	480
R v Halliday (1860)	593, 595
R v Harmouche (2005)	496, 498-500
R v Harris (1988)	396, 404
R v Harris (2007)	479, 480
R v Harvey (1996)	376
R v Hernando (2002)	498
R v Hildebrandt (2008)	476
R v Hoar (1981)	128
R v Howard (2005)	368
R v Humby; Ex parte Rooney (1973)	36, 52-54, 56, 60, 62
R v Iannelli (2003)	418
R v Inhabitants of All Saints, Worcester (1817) . 568-571, 574, 581, 582, 584, 586-591, 593, 594, 596, 598, 599, 601, 603, 604, 606, 608, 611, 612, 614, 624, 629-636	
R v Inhabitants of Bathwick (1831)	594, 630
R v Inhabitants of Cliviger (1788)	582, 591, 593, 594, 629, 630
R v Ismunandar (2002)	497
R v Justices of the County of Carnarvon (1820)	569
R v JW (2010)	471, 472, 650
R v Kerr (2003)	502, 503
R v Kinglake (1870)	576
R v Knight (2007)	130
R v Kucharski (1997)	475
R v Kumar (2008)	487
R v Lapworth (1930)	625, 633
R v Letteri (1993)	139
R v LK (2010)	647
R v Lord Audley (Earl of Castlehaven) (1631)	631
R v MacGowan (1986)	476
R v Maslen (1995)	475
R v McEvoy (2010)	130
R v McGinty (1986)	612
R v McIvor (2002)	476, 479, 490-492, 496, 498-500
R v Mooney (1978)	138
R v Mottola (1959)	612

TABLE OF CASES CITED

xxv

R v Muldrock (2010)	124-126, 129, 133, 136, 137, 139, 140
R v Pitt (1983)	599, 601, 603-605, 635
R v Reardon (1996)	476
R v Reid (2005)	130
R v Reyes (2005)	130
R v S (RJ) (1995)	612
R v Saunders (2011)	471
R v Scognamiglio (1991)	139
R v Secretary of State for the Home Department; Ex parte Pierson (1997)	622
R v Sellars (2010)	130
R v Smith (1987)	128
R v Steele (1997)	476, 497
R v Summers (1990)	572
R v Swaffield (1998)	577
R v Tait (1979)	133, 650
R v Talbot (2009)	471, 648
R v Tan (1983)	396
R v Thomson (2000)	496
R v Tisalandis (1979)	475, 497
R v Totten (2003)	128
R v Van Dyk (2000)	376
R v Wallis; Ex parte Employers Association of Wool Selling Brokers (Wool Stores Case) (1949)	176, 187
R v Watson (1992)	502
R v Watson; Ex parte Armstrong (1976)	448, 450
R v Way (2004)	128-131, 133
R v Wright (1997)	139
Radio Corporation Pty Ltd v The Commonwealth (1938)	113
Railways (NSW), Commissioner for v Agalianos (1955)	299, 398, 526
Rajski v Wood (1989)	450
Randal v Cockran (1748)	90
Rank Film Distributors Ltd v Video Information Centre (1982)	576, 618
Refrigerated Express Lines (A/asia) Pty Ltd v Australian Meat and Live-stock Corporation [No 2] (1980)	187
Reichel v Magrath (1889)	454, 458
Rich v Australian Securities and Investments Commission (2005)	362
Riddle v The King (1911)	571, 572, 584, 589, 610, 616, 631-635
Ridgeway v The Queen (1995)	452
Ridler v Walter (2001)	266
Ringrow Pty Ltd v BP Australia Ltd (2003)	362
Rio Tinto Zinc Corporation v Westinghouse Electric Corporation (1978) .	564,
	601, 602, 605, 627
Rippon v Chilcotin Pty Ltd (2001)	453, 458
Roads and Traffic Authority (NSW) v Dederer (2007)	388
Robert Sterling Pty Ltd [No 2], Re (1979)	609, 612
Robson (RP) Constructions Pty Ltd v Williams (1989)	265
Rochfort v Trade Practices Commission (1982)	564, 603
Rogers v The Queen (1994)	452
Rohde v Director of Public Prosecutions (1986)	645, 649

TABLE OF CASES CITED

Roncevich v Repatriation Commission (2005)	273
Roxborough v Rothmans of Pall Mall Australia Ltd (2001)	542
Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation (2010)	100, 101, 103
Roy Morgan Research Pty Ltd v Federal Commissioner of Taxation (2011)	542
RP Robson Constructions Pty Ltd v Williams (1989)	265
Ruabon Steamship Co Ltd v London Assurance (1899)	87, 88
Ruddock v Vadarlis (2001)	161
Rumping v Director of Public Prosecutions (UK) (1962)	564, 567, 626
Ryland v Federal Commissioner of Taxation (1973)	668, 673
S v Boulton (2005)	565, 568, 571, 575, 605, 610, 620
S v Boulton (2006)	565, 602, 614, 620, 621
Sadiqi v The Commonwealth [No 2] (2009)	209, 210, 219
Saeed v Minister for Immigration and Citizenship (2010) .	192, 340, 527, 622
Sandell v Porter (1966)	12
Saunders v Deputy Commissioner of Taxation (2010)	279
Science Research Council v Nasse (1980)	580
Scott v National Trust for Places of Historic Interest or Natural Beauty (1997)	662
Sean Investments Pty Ltd v MacKellar (1981)	215
Seltsam Pty Ltd v McGuiness (2000)	386
SGH Ltd v Federal Commissioner of Taxation (2002)	543-545, 552
Shaw Savill and Albion Co Ltd v The Commonwealth (1940)	41
Shenton v Tyler (1939)	566-568, 627, 635, 636
Smith Kline & French Laboratories (Aust) Ltd v Secretary, Department of Community Services and Health (1989)	439
Smith v The Queen (2001)	369
Smits v Roach (2006)	437, 449
Social Security, Secretary, Department of v SRA (1993) ...	396, 403, 404, 406
Sonzinsky v United States (1937)	104, 105
South Australia v The Commonwealth (1942)	113
Speno Rail Maintenance Australia Pty Ltd v Hamersley Iron Pty Ltd (2000)	84, 85, 87
Spinks v The Queen (2007)	502
SS Kalibia, Owners of v Wilson (1910)	439
State v Briggs (1869)	611
State v Deslovers (1917)	611
Steele v Insurance Australia Ltd (2008)	83
Stephens v The Queen (1985)	577
Stock Motor Ploughs Ltd v Forsyth (1932)	524
Stoddart v Boulton (2009)	565, 621
Stoddart v Boulton (2010)	565, 614, 619, 621
Stoten v Sage (2005)	614
Straits Exploration (Australia) Pty Ltd v Murchison United NL (2005)	315
Strategic Publishing Group Pty Ltd v John Fairfax Publications Pty Ltd (2003)	315
Street v Retravision (NSW) Pty Ltd (1995)	86, 87
Sutton v Johnstone (1786)	44, 46

TABLE OF CASES CITED

xxvii

Sydeleman v Beckwith (1875)	372
Sydney Municipal Council v The Commonwealth (1904)	106
SZ v Minister for Immigration and Multicultural Affairs (2000)	205, 207
T, Re (1975)	396
T A Robinson & Sons Pty Ltd v Haylor (1957)	528, 529
T v Home Secretary (1996)	205
Tang Man Sit v Capacious Investments Ltd (1996)	455
Tariff Reinsurances Ltd v Commissioner of Taxes (Vic) (1938)	300
Taxation, Deputy Commissioner of v Broadbeach Properties Pty Ltd (2008)	13
Taxation, Deputy Commissioner of v Brown (1958)	111
Taxation, Deputy Commissioner of v Moorebank Pty Ltd (1988)	652
Taxation, Deputy Commissioner of v State Bank (NSW) (1992)	543
Taxation, Federal Commissioner of v Bargwanna (2009)	664, 671
Taxation, Federal Commissioner of v BHP Billiton Finance Ltd (2010) ..	337, 345, 348, 350
Taxation, Federal Commissioner of v Clyne (1958)	111
Taxation, Federal Commissioner of v Hipsleys Ltd (1926)	110
Taxation, Federal Commissioner of v Lutovi Investments Pty Ltd (1978) .	341
Taxation, Federal Commissioner of v Sara Lee Household & Body Care (Aust) Pty Ltd (2000)	340
Taxation, Federal Commissioner of v Sidney Williams (Holdings) Ltd (1957)	340, 341
Taxation, Federal Commissioner of v Word Investments Ltd (2008) .	668, 673
Taylor v Harvey (1986)	577
Telstra Corporation Ltd v The Commonwealth (2008)	41
Telstra Corporation Ltd v Worthing (1999)	524-526
Thomas A Edison Ltd v Bullock (1912)	439
Thompson v Australian Capital Television Pty Ltd (1996)	455
Thompson v His Honour Judge Byrne (1999)	342
Thompson v Trevanion (1693)	567
Thomson Newspapers Ltd v Canada (1990)	612
Timbarra Protection Coalition Inc v Ross Mining NL (1999)	180
Tinning v Moran (1939)	612
Toll (FGCT) Pty Ltd v Alphapharm Pty Ltd (2004)	279
Tracey, Re; Ex parte Ryan (1989)	35
Trade Practices Commission v Abbco Iceworks Pty Ltd (1994)	613
Trade Practices Commission v Tooth & Co Ltd (1979)	104
Trammel v United States (1980)	611
Transport Accident Commission v CMT Construction of Metropolitan Tunnels (1988)	90
Transurban City Link Ltd v Allan (1999)	490
Tripodi v The Queen (1961)	635
Trustees, Executors and Agency Co Ltd v Acting Federal Commissioner of Taxation (1917)	666
Tubemakers of Australia Ltd v Fernandez (1976)	385
Tyler, In re; Tyler v Tyler (1891)	668
Tyler, Re; Ex parte Foley (1994)	35

TABLE OF CASES CITED

United Scientific Holdings Ltd v Burnley Borough Council (1978)	602
United States v Brown (1965)	35, 37
United States v Lovett (1946)	37
United States v Sanchez (1950)	104
University of New South Wales v Max Cooper & Sons Pty Ltd (1979) ..	264,
	265
Vakauta v Kelly (1989)	449
Van Brocklin v Tennessee (1886)	548
Varawa v Howard Smith & Co Ltd (1911)	452
Veen v The Queen [No 2] (1988)	128, 129, 139-141
Victoria v Sutton (1998)	19
Victoria v The Commonwealth (Industrial Relations Act Case) (1996)	41
Victoria v The Commonwealth (Kakariki Case) (1937)	524, 528
Vitol SA v Norelf Ltd (The Santa Clara) (1996)	274, 278
Voth v Manildra Flour Mills Pty Ltd (1990)	452
WACB v Minister for Immigration and Multicultural and Indigenous Affairs (2004)	204, 219
Wagner, Re (1958)	609
Wakim, Re; Ex parte McNally (1999)	19
Walker v Stones (2000)	662
Walker v Wimborne (1976)	343
Wallaby Grip Ltd v QBE Insurance (Australia) Ltd (2010)	299
Wallis v Downard-Pickford (North Queensland) Pty Ltd (1994)	525
Wanganui-Rangitikei Electric Power Board v Australian Mutual Provident Society (1934)	257
War Crimes Act Case (Polyukhovich v The Commonwealth) (1991) ...	35, 37,
	39, 57-59
Warren v Coombes (1979)	388
Wasa International Insurance Co Ltd v Lexington Insurance Co (2009) ...	300
Waterford v The Commonwealth (1987)	263
Waters v Public Transport Corporation (1991)	402
Way v The Queen (2005)	130
Wenn v Attorney-General (Vic) (1948)	524-526
Western Australia v AH (2010)	399, 401-405
Western Australia v Atherton (2009)	471
Western Australia v The Commonwealth (Native Title Act Case) (1995) ..	526
Westport Insurance Corporation v Gordian Runoff Ltd (2009)	256, 295
Westport Insurance Corporation v Gordian Runoff Ltd (2011)	319
White v Director of Military Prosecutions (2007)	35, 44, 56, 60-62
Whittaker v The King (1928)	650
Williams v Papworth (1900)	666
Williams v State (1882)	611
Wong v The Queen (2001)	473, 651
Woodbud Pty Ltd v Warea Pty Ltd (1995)	282
Woodgate v The Queen (2009)	502
Wool Tops Case (The Commonwealth v Colonial Combing, Spinning and Weaving Co Ltd) (1922)	103, 523
Woolworths Ltd v Pallas Newco Pty Ltd (2004)	158, 180

Work Choices Case (New South Wales v The Commonwealth) (2006)	538
WP Keighery Pty Ltd v Federal Commissioner of Taxation (1957) ..	340, 341
Wurramarbra v The Queen (1979)	502
Wurrildjal v The Commonwealth (2009)	538
Wyong Shire Council v Shirt (1980)	382
Youyang Pty Ltd v Minter Ellison Morris Fletcher (2003)	661, 663
Zeke Services Pty Ltd v Traffic Technologies Ltd (2005)	315

Addenda

- 242 CLR 648, headnote, last line.** Insert “: subnom *Brumar Pty Ltd v Norris* (2010) 28 VR 655” after “(Court of Appeal)”.
- 242 CLR 649, fn (1); 242 CLR 651, fn (16); and 242 CLR 659, fn (21).** Insert “(2010) 28 VR 665”.
- 242 CLR 659, fn (22).** Insert “(2010) 28 VR 665 at 706-707”.
- 242 CLR 659, fn (23).** Insert “(2010) 28 VR 665 at 707”.
- 242 CLR 660, fn (26).** Insert “(2010) 28 VR 665 at 709”.
- 242 CLR 660, fn (27).** Insert “(2010) 28 VR 665 at 712”.

Corrigenda

- 153 CLR 497, line 2.** For “of 4 March 1982” read “on 4 March 1982”.
- 153 CLR 497, line 36.** For “the Bank’s failure” read “Bunbury’s failure”.
- 242 CLR 352, line 20.** For “state or affairs” read “state of affairs”.
- 243 CLR 506, catchwords, 3rd para, line 1.** For “Principal of legality” read “Principle of legality”.