

2015-2016

THE

COMMONWEALTH

LAW REPORTS

CASES DETERMINED
IN THE
HIGH COURT OF AUSTRALIA

EDITORS

J D MERRALLS, AM, QC
C J HORAN, QC
P T VOUT

VOLUME 256

LAWBOOK CO.

2016

REPORTERS

M I BORSKY
C G BUTTON
A M DINELLI
P D HERZFELD
C J HORAN, QC
A D POUND
J A REDWOOD
A F SOLOMON-BRIDGE
H A TIPLADY
C J TRAN
P T VOUT
P G WILLIS, SC
C P YOUNG

BARRISTERS

PRODUCTION EDITOR

CAROLYN MAY



THOMSON REUTERS

© 2016 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 KENNETH MADISON HAYNE, AC
(retired 4 June 2015)

THE HONOURABLE SUSAN MAREE CRENNAN, AC
(resigned 2 February 2015)

THE HONOURABLE SUSAN MARY KIEFEL, AC

THE HONOURABLE VIRGINIA MARGARET BELL, AC

THE HONOURABLE STEPHEN JOHN GAGELER

THE HONOURABLE PATRICK ANTHONY KEANE, AC

THE HONOURABLE GEOFFREY ARTHUR AKEROYD NETTLE
(appointed 3 February 2015)

THE HONOURABLE MICHELLE MARJORIE GORDON
(appointed 9 June 2015)

ATTORNEY-GENERAL

SENATOR THE HONOURABLE GEORGE HENRY BRANDIS, QC

**Statement from the Bench
to acknowledge the life and work of
James Merralls, AM, QC**

The Court wishes to take this opportunity, at the commencement of its October sittings, to pay tribute to the life and work of JAMES D MERRALLS, AM, QC who made an unsurpassed contribution over decades to the publication of the Court's judgments to the legal profession, the academy and the wider Australia community.

James Merralls was born on 16 October 1936 in Canberra. He was educated at King's School, Parramatta and later at Melbourne Grammar School. He enrolled in law at Melbourne University in 1954 and graduated with Honours and numerous awards in 1960. He was one of the founding members of the editorial board of the *Melbourne University Law Review*. He signed the Victorian Bar Roll in April 1960. In that year he commenced his association with the *Commonwealth Law Reports* when he was appointed as one of the reporters. His name first appeared in Volume 103. In the same year, he commenced service, which he continued until 1961, as Associate to the then Chief Justice of the High Court, Sir Owen Dixon.

In May 1969, James Merralls became the editor of the *Commonwealth Law Reports* an office he retained until his death earlier this year. When he began as editor there was a large backlog of cases awaiting report. He found tea-chests containing transcripts of argument and judgments in more than 100 cases. The backlog was cleared, publication times shortened and the utility of the headnotes enhanced.

James Merralls' long-term commitment to the editorial task has been acknowledged over the decades by leading practitioners and judges. Sir Anthony Mason, in a Foreword to Volume 180 of the Reports, containing previously unreported cases which had subsequently acquired greater significance, observed of James Merralls that he had "provided much more than just the string to bind this historical collection of cases ... he is largely responsible for the very high standard we have come to expect of the Reports".

Chief Justice Murray Gleeson in a Foreword to Volume 200 of the *Commonwealth Law Reports*, “warmly repeated” Sir Anthony Mason's tributes, adding: “Mr Merralls has made an invaluable contribution to the Australian judiciary, the legal profession, law teachers, and all users of the reports.”

In 1999, James Merralls was made a Member of the Order of Australia “for services to the judiciary and to the legal profession as the editor of the *Commonwealth Law Reports*”.

It should not be thought that James Merralls' career was defined by his editorship. He was a leading counsel in this Court and other Australian courts in a number of fields including equity, taxation, administrative law and intellectual property law. There are 48 cases reported in the *Commonwealth Law Reports* in which he appeared, in the majority of them as leader.

In 2013, James Merralls was awarded an Honorary Doctorate in Laws by Melbourne University. In 2014, the James Merralls Visiting Fellowship in Law was established by the University and launched by the Hon Michael McHugh, AC, QC, a former Justice of this Court.

The Court marks its sadness at the passing of a fine Australian lawyer who practised his profession at the highest levels and gave unstintingly of his time and talents in the public interest. We extend our deepest sympathy to his wife, Rosemary and to their children, Nora and James.

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

**TABLE OF CASES REPORTED
IN THIS VOLUME**

Allen v Chadwick	148
Attorney-General (NSW); CMB v	346
Beckett; R v	305
Boral Resources (Vic) Pty Ltd; Construction, Forestry, Mining and Energy Union v	375
Chadwick; Allen v	148
CMB v Attorney-General (NSW)	346
Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
Congoo; Queensland v	239
Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd	375
Cunneen; Independent Commission Against Corruption (NSW) v	1
Duncan v Independent Commission Against Corruption	83
Dunstall; Police v	403
Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd	137
Filippou v The Queen	47
Immigration and Border Protection, Minister for v WZARH	326
Immigration and Border Protection, Minister for; Ueese v	203
Independent Broad-Based Anti-Corruption Commissioner; R v	459
Independent Commission Against Corruption (NSW) v Cunneen	1
Independent Commission Against Corruption; Duncan v	83
Mekpine Pty Ltd; Moreton Bay Regional Council v	437
Moreton Bay Regional Council v Mekpine Pty Ltd	437
Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd	104
Mount Bruce Mining Pty Ltd; Wright Prospecting Pty Ltd v	104
Nguyen v The Queen	656
North Australian Aboriginal Justice Agency Ltd v Northern Territory	569

Northern Territory; North Australian Aboriginal Justice Agency Ltd v	569
Pham; R v	550
Police v Dunstall	403
Queensland Rail; Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v	171
Queensland v Congo	239
Quest South Perth Holdings Pty Ltd; Fair Work Ombudsman v	137
R v Beckett	305
R v Independent Broad-Based Anti-Corruption Commissioner	459
R v Pham	550
R; Filippou v	47
R; Nguyen v	656
R; Zaburoni v	482
Ramsey Food Processing Pty Ltd; Tomlinson v	507
Tomlinson v Ramsey Food Processing Pty Ltd	507
Ueese v Minister for Immigration and Border Protection	203
Wright Prospecting Pty Ltd v Mount Bruce Mining Pty Ltd	104
Wright Prospecting Pty Ltd; Mount Bruce Mining Pty Ltd v	104
WZARH; Minister for Immigration and Border Protection v	326
Zaburoni v The Queen	482

TABLE OF CASES JUDICIALLY CONSIDERED IN CASES REPORTED IN THIS VOLUME

<i>Adams v The Queen</i> (2008) 234 CLR 143	
Considered. R v Pham	550
<i>Akiba v The Commonwealth</i> (2013) 250 CLR 209	
Referred to. Queensland v Congo	239
<i>Allen v Chadwick</i> (2014) 120 SASR 350	
Varied. Allen v Chadwick	148
<i>Army, Minister of State for v Dalziel</i> (1944) 68 CLR 261	
Referred to. Queensland v Congo	239
<i>Australian Education Union v General Manager of Fair Work Australia</i> (2012) 246 CLR 117 at 141-142 [49]-[50], 150 [78]	
Applied. Duncan v Independent Commission Against Corruption	83
 <i>Barbaro v The Queen</i> (2014) 253 CLR 58	
Applied. R v Pham	550
Referred to. R v Pham	550
<i>Beckett v The Queen</i> (2014) 247 A Crim R 94; 315 ALR 295	
Reversed. R v Beckett	305
<i>Bunning v Cross</i> (1978) 141 CLR 54	
Considered. Police v Dunstall	403
 <i>Chaff and Hay Acquisition Committee v JA Hemphill & Sons Pty Ltd</i> (1947) 74 CLR 375	
Considered. Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
<i>Cheung v The Queen</i> (2001) 209 CLR 1	
Explained. Filippou v The Queen	47
<i>Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs</i> (1992) 176 CLR 1	
Considered. North Australian Aboriginal Justice Agency Ltd v Northern Territory	569
<i>Collins v The Queen</i> (1975) 133 CLR 120 at 122	
Referred to. Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd	104
<i>Congo v Queensland</i> (2014) 218 FCR 358	
Affirmed. Queensland v Congo	239
 <i>Do Young Lee v The Queen</i> (2014) 253 CLR 455 at 467 [32]-[33]	
Applied. Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd	375

<i>Driscoll v The Queen</i> (1977) 137 CLR 517	
Considered. <i>Police v Dunstall</i>	403
<i>Environment Protection Authority v Caltex Refining Co Pty Ltd</i> (1993) 178 CLR 477	
Considered. <i>Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd</i>	375
<i>Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd</i> (2015) 228 FCR 346	
Reversed. <i>Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd</i>	137
<i>Fejo v Northern Territory</i> (1998) 195 CLR 96	
Referred to. <i>Queensland v Congoo</i>	239
<i>Fox v Percy</i> (2003) 214 CLR 118	
Applied. <i>Allen v Chadwick</i>	148
<i>French v Scarman</i> (1979) 20 SASR 333 at 337, 340-341	
Distinguished. <i>Police v Dunstall</i>	403
<i>Gibb v Federal Commissioner of Taxation</i> (1966) 118 CLR 628 at 635	
Applied. <i>Moreton Bay Regional Council v Mekpine Pty Ltd</i>	437
<i>Goldie v Minister for Immigration and Multicultural Affairs</i> (2001) 111 FCR 378 at 391	
Disapproved. <i>Uelese v Minister for Immigration and Border Protection</i>	203
<i>HA Bachrach Pty Ltd v Queensland</i> (1998) 195 CLR 547 at 560 [8]-[9], 561-562 [14], 563-564 [18]-[22]	
Applied. <i>Duncan v Independent Commission Against Corruption</i>	83
<i>Hili v The Queen</i> (2010) 242 CLR 520	
Applied. <i>R v Pham</i>	550
<i>Hinch v Attorney-General (Vic)</i> (1987) 164 CLR 15 at 89	
Applied. <i>Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd</i>	375
<i>Immigration and Multicultural and Indigenous Affairs, Minister for, Re; Ex parte Lam</i> (2003) 214 CLR 1 at 12-13 [34], 36 [111], 38 [121]	
Considered. <i>Minister for Immigration and Border Protection v WZARH</i>	326
Referred to. <i>Minister for Immigration and Border Protection v WZARH</i>	326
<i>Interior, Minister for v Brisbane Amateur Turf Club</i> (1949) 80 CLR 123	
Referred to. <i>Queensland v Congoo</i>	239
<i>International Finance Trust Co Ltd v NSW Crime Commission</i> (2009) 240 CLR 319	
Distinguished. <i>Duncan v Independent Commission Against Corruption</i>	83
<i>Jagroop v Minister for Immigration and Border Protection</i> (2014) 225 FCR 482	
Considered. <i>Uelese v Minister for Immigration and Border Protection</i>	203

TABLE OF CASES JUDICIALLY CONSIDERED

xi

<i>Kable v Director of Public Prosecutions (NSW)</i> (1996) 189 CLR 51 Distinguished. <i>North Australian Aboriginal Justice Agency Ltd v Northern Territory</i>	569
<i>Kariapper v Wijesinha</i> [1968] AC 717 at 741 Applied. <i>Duncan v Independent Commission Against Corruption</i>	83
<i>Kirk v Industrial Court (NSW)</i> (2010) 239 CLR 531 Distinguished. <i>Duncan v Independent Commission Against Corruption</i>	83
<i>Kruger v The Commonwealth</i> (1997) 190 CLR 1 Applied. <i>North Australian Aboriginal Justice Agency Ltd v Northern Territory</i> ..	569
<i>Lee v NSW Crime Commission</i> (2013) 251 CLR 196 at 313 [318] Applied. <i>Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd</i>	375
<i>Liverpool Insurance Co v Massachusetts</i> (1870) 77 US 566 Considered. <i>Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail</i>	171
<i>Mabo v Queensland [No 2]</i> (1992) 175 CLR 1 Referred to. <i>Queensland v Congo</i>	239
<i>Mekpine Pty Ltd v Moreton Bay Regional Council</i> [2016] 1 Qd R 148 Reversed. <i>Moreton Bay Regional Council v Mekpine Pty Ltd</i>	437
<i>Nelungaloo Pty Ltd v The Commonwealth</i> (1947) 75 CLR 495 at 503-505 Applied. <i>Duncan v Independent Commission Against Corruption</i>	83
<i>North Ganalanja Aboriginal Corporation v Queensland</i> (1996) 185 CLR 595 at 643 Referred to. <i>Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd</i>	104
<i>Pham v The Queen</i> (2014) 244 A Crim R 252 Reversed. <i>R v Pham</i>	550
<i>Plaintiff S10/2011 v Minister for Immigration and Citizenship</i> (2012) 246 CLR 636 at 658 [65] Referred to. <i>Minister for Immigration and Border Protection v WZARH</i>	326
<i>Police (SA) v Dunstall</i> (2014) 120 SASR 88 Reversed. <i>Police v Dunstall</i>	403
<i>Police (SA) v Hall</i> (2006) 95 SASR 482 Considered. <i>Police v Dunstall</i>	403
<i>Project Blue Sky Inc v Australian Broadcasting Authority</i> (1998) 194 CLR 355 at 381-382 [69]-[70] Applied. <i>Independent Commission Against Corruption v Cunneen</i>	1
<i>Putland v The Queen</i> (2004) 218 CLR 174 Applied. <i>R v Pham</i>	550

<i>R v Christie</i> [1914] AC 545	
Considered. <i>Police v Dunstall</i>	403
<i>R v De Simoni</i> (1981) 147 CLR 383	
Distinguished. <i>Nguyen v The Queen</i>	656
<i>R v Edwards</i> (2009) 83 ALJR 717; 255 ALR 399	
Considered. <i>Police v Dunstall</i>	403
<i>R v Hernando</i> (2002) 136 A Crim R 451	
Approved. <i>CMB v Attorney-General (NSW)</i>	346
<i>R v Humby; Ex parte Rooney</i> (1973) 129 CLR 231 at 250	
Applied. <i>Duncan v Independent Commission Against Corruption</i>	83
<i>R v Independent Broad-Based Anti-Corruption Commissioner</i> (2015) 47 VR 148	
Affirmed. <i>R v Independent Broad-Based Anti-Corruption Commissioner</i>	459
<i>R v Lee</i> (1950) 82 CLR 133	
Considered. <i>Police v Dunstall</i>	403
<i>R v Lobban</i> (2000) 77 SASR 24	
Considered. <i>Police v Dunstall</i>	403
<i>R v Murphy</i> (1985) 158 CLR 596	
Considered. <i>R v Beckett</i>	305
<i>R v Nguyen</i> (2013) 234 A Crim R 324	
Affirmed. <i>Nguyen v The Queen</i>	656
<i>R v Olbrich</i> (1999) 199 CLR 270	
Applied. <i>Filippou v The Queen</i>	47
Applied. <i>R v Pham</i>	550
<i>R v Reid</i> [2007] 1 Qd R 64	
Considered. <i>Zaburoni v The Queen</i>	482
<i>R v Rogerson</i> (1992) 174 CLR 268	
Considered. <i>R v Beckett</i>	305
<i>R v Smith</i> [2007] NSWCCA 100	
Disapproved. <i>CMB v Attorney-General (NSW)</i>	346
<i>R v Swaffield</i> (1998) 192 CLR 159	
Considered. <i>Police v Dunstall</i>	403
<i>R v Willmot [No 2]</i> [1985] 2 Qd R 413	
Considered. <i>Zaburoni v The Queen</i>	482
<i>R v Zaburoni</i> (2014) 239 A Crim R 505	
Reversed. <i>Zaburoni v The Queen</i>	482
<i>Ramsay v Pigram</i> (1968) 118 CLR 271 at 279	
Explained. <i>Tomlinson v Ramsey Food Processing Pty Ltd</i>	507
<i>Sahab Holdings Pty Ltd v Registrar-General [No 2]</i> (2012) 16 BPR 30,353	
Distinguished. <i>Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd</i>	104
<i>Sorrento Medical Service Pty Ltd v Chief Executive, Department of Main Roads</i> [2007] 2 Qd R 373	
Explained. <i>Moreton Bay Regional Council v Mekpine Pty Ltd</i>	437

TABLE OF CASES JUDICIALLY CONSIDERED

xiii

Ueese v Minister for Immigration and Citizenship (2013) 60 AAR 534
 Reversed. *Ueese v Minister for Immigration and Border Protection* 203

Weininger v The Queen (2003) 212 CLR 629 at 636-637 [20]
 Applied. *Filippou v The Queen* 47

Western Australia v Ward (2002) 213 CLR 1
 Referred to. *Queensland v Congo* 239

Western Export Services Inc v Jireh International Pty Ltd (2011) 86 ALJR 1 at 2;
 282 ALR 604 at 605
 Referred to. *Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd* 104

Williams v Hursey (1959) 103 CLR 30
 Considered. *Communications, Electrical, Electronic, Energy, Information,
 Postal, Plumbing and Allied Services Union of Australia v Queensland
 Rail* 171

Witham v Holloway (1995) 183 CLR 525 at 534
 Applied. *Construction, Forestry, Mining and Energy Union v Boral Resources
 (Vic) Pty Ltd* 375

Wong v The Queen (2001) 207 CLR 584
 Applied. *R v Pham* 550

WZARH v Minister for Immigration and Border Protection (2014) 230 FCR 130
 Affirmed. *Minister for Immigration and Border Protection v WZARH* 326

Yanner v Eaton (1999) 201 CLR 351
 Referred to. *Queensland v Congo* 239

Corrigenda

255 CLR 515, para (2) line 3: For “s 74(4)” read “s 72(4)”.

255 CLR 662, para 5, line 12: For “the judgment sum liabilities” read
 “the judgment and liabilities”.

STATUTES, RULES, ETC JUDICIALLY CONSIDERED

COMMONWEALTH CONSTITUTION

Ch III: Duncan v Independent Commission Against Corruption	83
Ch III: North Australian Aboriginal Justice Agency Ltd v Northern Territory	569
s 51(xx): Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 109: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 122: North Australian Aboriginal Justice Agency Ltd v Northern Territory	569

COMMONWEALTH

Criminal Code

s 307.2(1): R v Pham	550
----------------------------	-----

Fair Work Act 2009

s 12: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 14: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 357(1): Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd	137
s 682(1)(d): Tomlinson v Ramsey Food Processing Pty Ltd	507

Judiciary Act 1903

s 68: R v Pham	550
----------------------	-----

Migration Act 1958

s 499: Uelese v Minister for Immigration and Border Protection	203
s 500(6H): Uelese v Minister for Immigration and Border Protection	203
s 501(2): Uelese v Minister for Immigration and Border Protection	203

National Security Act 1939

s 5(1): Queensland v Congoo	239
-----------------------------------	-----

National Security (General) Regulations

s 54(1): Queensland v Congoo	239
s 54(2)(b): Queensland v Congoo	239

Native Title Act 1993

Queensland v Congoo	239
---------------------------	-----

Workplace Relations Act 1996

s 719(6): Tomlinson v Ramsey Food Processing Pty Ltd	507
--	-----

NEW SOUTH WALES

s 6(1): Filippou v The Queen	47
------------------------------------	----

Crimes Act 1900

s 18(1)(b): Nguyen v The Queen	656
s 23: Filippou v The Queen	47

s 24: Nguyen v The Queen	656
s 33(1): Nguyen v The Queen	656
s 319: R v Beckett	305
s 421(1)(c): Nguyen v The Queen	656
s 421(2): Nguyen v The Queen	656
Crimes (Sentencing Procedure) Act 1999	
s 21A(1): Nguyen v The Queen	656
s 21A(2): Filippou v The Queen	47
s 21A(3): Filippou v The Queen	47
s 23: CMB v Attorney-General (NSW)	346
Criminal Appeal Act 1912	
s 5D: CMB v Attorney-General (NSW)	346
Criminal Procedure Act 1986	
s 133: Filippou v The Queen	47
Independent Commission Against Corruption Act 1988	
cl 34: Duncan v Independent Commission Against Corruption	83
cl 35: Duncan v Independent Commission Against Corruption	83
Pt 13: Duncan v Independent Commission Against Corruption	83
s 8: Independent Commission Against Corruption v Cunneen	1
Sch 4: Duncan v Independent Commission Against Corruption	83

NORTHERN TERRITORY

Police Administration Act	
s 123: North Australian Aboriginal Justice Agency Ltd v Northern Territory	569
s 133AB: North Australian Aboriginal Justice Agency Ltd v Northern Territory	569
s 137(1): North Australian Aboriginal Justice Agency Ltd v Northern Territory	569

QUEENSLAND

Acquisition of Land Act 1967	
s 12(5): Moreton Bay Regional Council v Mekpine Pty Ltd	437
Criminal Code	
s 317(b): Zaburoni v The Queen	482
s 317(e): Zaburoni v The Queen	482
Industrial Relations Act 1999	
ss 691A-691D: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
Land Title Act 1994	
s 182: Moreton Bay Regional Council v Mekpine Pty Ltd	437
Queensland Rail Transit Authority Act 2013	
s 6(2): Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171

s 6: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 7: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 9(1): Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 10(1): Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 69: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 72: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
s 73: Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail	171
Retail Shop Leases Act 1994	
s 6: Moreton Bay Regional Council v Mekpine Pty Ltd	437
s 20: Moreton Bay Regional Council v Mekpine Pty Ltd	437

SOUTH AUSTRALIA

Civil Liability Act 1936	
s 44(1): Allen v Chadwick	148
s 47: Allen v Chadwick	148
s 49(1): Allen v Chadwick	148
s 49(3): Allen v Chadwick	148
Road Traffic Act 1961	
s 47K: Police v Dunstall	403
Road Traffic (Miscellaneous) Regulations 1999	
reg 11: Police v Dunstall	403

VICTORIA

Independent Broad-based Anti-corruption Commission Act 2011	
s 120: R v Independent Broad-Based Anti-Corruption Commissioner	459
s 144: R v Independent Broad-Based Anti-Corruption Commissioner	459
Supreme Court (General Civil Procedure) Rules 2005	
r 29.07(2): Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd	375
r 75.06(2): Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd	375

TABLE OF CASES CITED IN THE JUDGMENTS

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

Abalos v Australian Postal Commission (1990)	338
Abebe v The Commonwealth (1999)	233
Aboriginal Affairs, Minister for v Peko-Wallsend Ltd (1986)	591
Abujoudeh v Minister for Immigration and Multicultural Affairs (2001)	332
Actors and Announcers Equity Association of Australia v Fontana Films Pty Ltd (1982)	133
Adams v The Queen (2008)	562
Ahnee v Director of Public Prosecutions (1999)	395
Ainsworth v Criminal Justice Commission (1992)	94
AK v Western Australia (2008)	55
Akiba v The Commonwealth (2013)	264, 266, 287, 288, 291, 295, 299, 300
Al-Kateb v Godwin (2004)	325, 606
Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue (NT) (2009) ..	236, 581
Alexander v The Queen (1981)	418
Allders International Pty Ltd v Commissioner of State Revenue (Vic) (1996)	614
Allen v Chadwick (2014)	160-165, 168, 169
Amalgamated Television Services Pty Ltd v Marsden (2001)	396
Ankar Pty Ltd v National Westminster Finance (Australia) Ltd (1987)	450
Anthony Hordern & Sons Ltd v Amalgamated Clothing and Allied Trades Union of Australia (1932)	256, 302
Applicant NAFF of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs (2004)	342
Applicant VEAL of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs (2005)	221, 233
Army, Minister of State for v Dalziel (1944)	252, 253, 259-261, 284, 285, 296, 297, 301, 302
AT & T Istel Ltd v Tully (1993)	388
Attorney-General (Cth) v The Queen (1957)	613, 614, 631, 632
Attorney-General (NSW) v Quin (1990)	332, 334, 335
Attorney-General (NT) v Emmerson (2014)	95, 593, 595, 618, 637
Attorney-General (SA) v Adelaide City Corporation (2013)	27
Attorney-General (UK) v HRH Prince Ernest Augustus of Hanover (1957)	28
Australasian Meat Industry Employees Union v Mudginberri Station Pty Ltd (1986)	395
Australasian Performing Right Association Ltd v Commonwealth Bank of Australia (1992)	29
Australian Agricultural Co Ltd v Federated Engine-Drivers and Firemen's Association of A/asia (1913)	630

Australian Communications and Media Authority v Today FM (Sydney) Pty Ltd (2015)	35, 604
Australian Communist Party v The Commonwealth (1951)	276
Australian Conservation Foundation v The Commonwealth (1979)	626
Australian Consolidated Press Ltd v Morgan (1965)	395
Australian Crime Commission v Stoddart (2011)	430, 581
Australian Education Union v General Manager of Fair Work Australia (2012)	93, 95, 97-99, 102, 581
Australian Financial Services & Leasing Pty Ltd v Hills Industries Ltd (2014)	546
Australian National Airways Pty Ltd v The Commonwealth (1945) ..	194, 604
Australian Securities and Investments Commission v Sigalla [No 4] (2011)	382, 395, 396
Baiada Poultry Pty Ltd v The Queen (2012)	55
Baini v The Queen (2012)	74
Baker v Carr (1962)	627
Baker v The Queen (2004)	95, 101, 593
Balog v Independent Commission Against Corruption (1990) ..	14, 17, 35, 39, 40
Bank Nationalisation Case (Bank of New South Wales v The Commonwealth) (1948)	193, 194, 196, 625, 626
Bank of Montreal v Mitchell (1997)	541
Bank of New South Wales v The Commonwealth (Bank Nationalisation Case) (1948)	193, 194, 196, 625, 626
Barbaro v The Queen (2014)	369, 558-560, 563, 565
Barclays Bank Ltd v WJ Simms Son & Cooke (Southern) Ltd (1980)	545
Baroness Wenman v Mackenzie (1855)	539
Barrs v Jackson (1845)	538
Batistatos v Roads and Traffic Authority (NSW) (2006)	518
Beckett v The Queen (2014)	310, 314, 315, 318
Beghal v Director of Public Prosecutions (2015)	479
Blair v Curran (1939)	516, 517
Boilermakers' Case (R v Kirby; Ex parte Boilermakers' Society of Australia) (1956)	613, 614, 631, 632, 635-637
Bolton, Re; Ex parte Beane (1987)	608, 649, 650
Bonsor v Musicians' Union (1956)	186
Boral Resources (Vic) Pty Ltd v Construction, Forestry, Mining and Energy Union (2014)	383
Bropho v Western Australia (1990)	581
Bryant v Commonwealth Bank of Australia (1995)	517
Bugmy v The Queen (2013)	358, 360
Building Construction Employees and Builders' Labourers Federation (NSW) v Minister for Industrial Relations (1986)	632
Bunning v Cross (1978)	417, 421, 423, 429, 430, 432
Bushell v Repatriation Commission (1992)	221, 233

TABLE OF CASES CITED

xix

Butler v Attorney-General (Vic) (1961) 649

Cabell v Markham (1945) 33

Caltex Refining Co Pty Ltd v State Pollution Control Commission
(1991) 398

Capital Duplicators Pty Ltd v Australian Capital Territory (1992) 193, 613,
633, 634, 636

Capital TV & Appliances Pty Ltd v Falconer (1971) 614-616, 634-636

Carl Zeiss Stiftung v Rayner & Keeler Ltd [No 2] (1966) 537, 539

Carnie v Esanda Finance Corporation Ltd (1995) 524

Carroll v The Queen (2009) 358, 374

Certain Lloyd’s Underwriters Subscribing to Contract No IH00AAQS v
Cross (2012) 20

Chadwick v Allen (2012) 154, 155, 158-160, 165, 168, 169

Chaff and Hay Acquisition Committee v JA Hemphill & Sons Pty Ltd
(1947) 185-187, 198

Chamberlain v Deputy Commissioner of Taxation (1988) 516, 518

Chamberlain v The Queen [No 2] (1984) 54, 66

Chan v Cresdon Pty Ltd (1989) 450

Chartbrook Ltd v Persimmon Homes Ltd (2008) 135

Chen v Minister for Immigration and Ethnic Affairs (1994) 330, 331, 343

Cheung v The Queen (2001) 70, 71

Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic
Affairs (1992) .. 97, 325, 592, 593, 610, 611, 619, 622, 627, 632, 651, 652

Church of Scientology Inc v Woodward (1982) 193

CIC Insurance Ltd v Bankstown Football Club Ltd (1997) 28, 37, 100

Clarkson v Director of Public Prosecutions (Vic) (1990) 396

Clement v Jones (1909) 297

Coco v The Queen (1994) 325, 481, 581

Codelfa Construction Pty Ltd v State Rail Authority (NSW) (1982) . 116, 117,
131, 132, 134, 135

Coffey v Secretary, Department of Social Security (1999) 519

Coleman v Power (2004) 626

Coleman, Re; Ex parte Billing (1986) 236

Colina, Re; Ex parte Torney (1999) 388, 395

Collins v The Queen (1975) 133

Commonwealth, The v Hospital Contribution Fund (1982) 618

Commonwealth, The v Tasmania (Tasmanian Dam Case) (1983) 200, 625

Commonwealth, The v Verwayen (1990) 546

Commonwealth, The v Yarmirr (2001) 276, 299

Condon v Pompano Pty Ltd (2013) 594, 618

Congoo v Queensland (2014) 252, 262, 263, 267, 269, 275-278, 285-287,
290, 293, 294

Construction, Forestry, Mining and Energy Union v Boral Resources (Vic)
Pty Ltd (2013) 380

Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd (2015)	472, 473
Construction, Forestry, Mining and Energy Union v Director, Fair Work Building Industry Inspectorate (2014)	395
Construction, Forestry, Mining and Energy Union v Grocon Constructors (Vic) Pty Ltd (2014)	383, 384
Cook v Cook (1986)	164
Cooper Brookes (Wollongong) Pty Ltd v Federal Commissioner of Taxation (1981)	28, 37, 232, 647
Corkery v Carpenter (1950)	29
Coulls v Bagot's Executor & Trustee Co Ltd (1967)	542
Coward v Stapleton (1953)	396
CPCF v Minister for Immigration and Border Protection (2015)	612
Croome v Tasmania (1997)	626
Crouch v Commissioner for Railways (Qld) (1985)	193
Cunneen v Independent Commission Against Corruption (2014)	18-23, 28, 34, 36, 318, 324
Currie v Glen (1936)	451
Cutter v The Queen (1997)	490
D'Orta-Ekenaike v Victoria Legal Aid (2005)	516, 628
Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission (2002)	380, 391, 392, 397, 481
David Securities Pty Ltd v Commonwealth Bank of Australia (1992)	545
De Gruchy v The Queen (2002)	490
Dearman v Dearman (1908)	338
Delgamuukw v British Columbia (1993)	278
Delhi International Oil Corporation v Olive (1973)	110
Devries v Australian National Railways Commission (1993)	338
Dickason v Dickason (1913)	594
Dietrich v The Queen (1992)	419, 431
Dinsdale v The Queen (2000)	568
Domican v The Queen (1992)	66
Donaldson v Broomby (1982)	648
Dow Jones & Co Inc v Gutnick (2002)	516
Doyle v The Commonwealth (1985)	389, 395, 396
Driscoll v The Queen (1977)	415, 418, 419, 429
Drummoyne Municipal Council v Australian Broadcasting Corporation (1990)	32
DTR Nominees Pty Ltd v Mona Homes Pty Ltd (1978)	132
Duke v The Queen (1989)	429, 430
Duncan v Independent Commission Against Corruption (2014)	90, 91
Duncan v Independent Commission Against Corruption (2015)	593
Dupas v The Queen (2010)	434
Ebner v Official Trustee in Bankruptcy (2000)	634

TABLE OF CASES CITED

xxi

Effem Foods Pty Ltd v Trawl Industries of Australia Pty Ltd (In liq) (1993)	522, 535, 541
Einfeld v The Queen (2008)	323-325
Electricity Generation Corporation v Woodside Energy Ltd (2014) ..	116, 117, 121, 132, 134
Electrolux Home Products Pty Ltd v Australian Workers Union (2004) ...	471, 581
Elias v The Queen (2013)	365
Eljazzar v BHP Iron Ore Pty Ltd (1996)	522, 534-536
Environment Protection Authority v Caltex Refining Co Pty Ltd (1993) .	223, 380, 381, 384, 385, 387, 388, 390-392, 394, 395, 397-400, 472
Everett v The Queen (1994)	359, 366-370
Exagym Pty Ltd v Professional Gymnasium Equipment Co Pty Ltd (1994)	400
FAI Insurances Ltd v Winneke (1982)	591
Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd (2015) ...	142, 143, 145
Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd [No 2] (2013)	142
Fair Work Ombudsman v Ramsey Food Processing Pty Ltd (2011)	513, 528-530, 547
Fair Work Ombudsman v Ramsey Food Processing Pty Ltd [No 2] (2012)	513
Fardon v Attorney-General (Qld) (2004)	593, 595, 611, 618, 619
Federal Capital Commission v Laristan Building & Investment Co Pty Ltd (1929)	615
Fejo v Northern Territory (1998) .	254, 272, 274, 279, 281, 282, 286, 290-292, 299, 300
Fencott v Muller (1983)	200, 516
Ferdinands v Commissioner for Public Employment (2006)	649
Filippou v The Queen (2013)	51, 81, 82
Finance Facilities Pty Ltd v Federal Commissioner of Taxation (1971) ...	645
Fitzgerald v The Queen (2014)	75
Fleming v The Queen (1998)	52, 53, 66, 67, 75, 78
Flint Ink NZ Ltd v Huhtamaki Australia Pty Ltd (2014)	122, 128
Forge v Australian Securities and Investments Commission (2006) .	594, 618, 619, 638
Fortress Credit Corporation (Australia) II Pty Ltd v Fletcher (2015)	44
Foster v The Queen (1993)	416
Fox v Percy (2003)	169, 339
Fox v Wood (1981)	546
French v Scarman (1979)	421, 426, 428, 432, 433
Fulwood's Case (1590)	182
GAS v The Queen (2004)	369
Georgeski v Owners Corporation SP49833 (2004)	297

Gerlach v Clifton Bricks Pty Ltd (2002)	591
Gibb v Federal Commissioner of Taxation (1966)	451, 452
Gilbertson v South Australia (1977)	632
Glasgow Corporation v Muir (1943)	163, 164
Gleeson v J Wippell & Co Ltd (1977)	516, 535, 539
Golden Key Ltd, Re (2009)	117
Goldie v Minister for Immigration and Multicultural Affairs (2001) .	214-217, 220, 223, 230, 231, 235
Goulburn Correctional Centre, Governor, Re; Ex parte Eastman (1999) ..	614, 615, 634
Graham v Baker (1961)	546
Green v The Queen (2011)	359, 366, 678
Greiner v Independent Commission Against Corruption (1992)	16, 39, 40, 42, 94
Griffiths v The Queen (1977)	359, 360, 366, 368
Grundt v Great Boulder Pty Gold Mines Ltd (1937)	546
HA Bachrach Pty Ltd v Queensland (1998)	95, 98, 632
Haddara v The Queen (2014)	417, 430
Haoucher v Minister for Immigration and Ethnic Affairs (1990)	334
Harriman v The Queen (1989)	418, 429
Harris v Caladine (1991)	618
Harris v Director of Public Prosecutions (UK) (1952)	418, 419
Hearne v Street (2008)	395
Heatley v Tasmanian Racing and Gaming Commission (1977)	336
Heiner v Scott (1914)	194, 629
Henderson v Henderson (1843)	517
Hide & Skin Trading Pty Ltd v Oceanic Meat Traders Ltd (1990)	451
Higgins v Senior (1841)	547
Hili v The Queen (2010)	556, 558-561, 563-565, 677, 678
Hinch v Attorney-General (Vic) (1987)	383, 388, 389, 393, 395
House of Spring Gardens Ltd v Waite (1990)	542
House v The King (1936)	358, 365, 366, 568, 667, 669
Hoysted v Federal Commissioner of Taxation (1921)	517
Hoysted v Federal Commissioner of Taxation (1925)	518, 519
Ibbs v The Queen (1987)	669
Immigration and Citizenship, Minister for v Li (2013)	209, 222, 340
Immigration and Citizenship, Minister for v SZIAI (2009)	233
Immigration and Ethnic Affairs, Minister for v Teoh (1995)	335
Immigration and Multicultural Affairs, Minister for, Re; Ex parte Applicant S154/2002 (2003)	233
Immigration and Multicultural and Indigenous Affairs, Minister for v Nystrom (2006)	233, 648
Immigration and Multicultural and Indigenous Affairs, Minister for, Re; Ex parte Ame (2005)	626

Immigration and Multicultural and Indigenous Affairs, Minister for, Re; Ex parte Lam (2003)	193, 334-337, 340, 342, 343
Incorporation Case (New South Wales v The Commonwealth) (1990)	183
Independent Commission Against Corruption (NSW) v Cunneen (2015) ...	91, 92, 94, 98, 100, 101
Independent Commission Against Corruption v Chaffey (1993)	16
Interior, Minister for v Brisbane Amateur Turf Club (1949)	252, 260, 261, 289, 301
International Finance Trust Co Ltd v NSW Crime Commission (2009)	98, 594, 604, 619, 620, 638
JA Hemphill & Sons Pty Ltd v Chaff and Hay Acquisition Committee (1947)	186
JA Pye (Oxford) Ltd v Graham (2002)	255, 296
Jackson v Goldsmith (1950)	516, 517
Jago v District Court (NSW) (1989)	424, 434
Jagroop v Minister for Immigration and Border Protection (2014) ...	216-219, 221, 231-234
Japaljarri v Cooke (1982)	602
Jemena Asset Management (3) Pty Ltd v Coinvest Ltd (2011)	649
John v Federal Commissioner of Taxation (1989)	615, 617, 630
Johnson v Gore Wood & Co (2000)	516, 519, 522, 539
Johnson v The Queen (2004)	360, 670
Jones v Hyde (1989)	338
Joslyn v Berryman (2003)	163, 164
Julius v Lord Bishop of Oxford (1880)	645
Jumbunna Coal Mine NL v Victorian Coal Miners' Association (1908) ...	198
K & S Lake City Freighters Pty Ltd v Gordon & Gotch Ltd (1985)	28
K-Generation Pty Ltd v Liquor Licensing Court (2009)	581, 594
Kable v Director of Public Prosecutions (NSW) (1996) ...	93, 95, 96, 98, 581, 593-596, 617-619, 622, 625, 632, 633, 637-640, 651, 652
Kariapper v Wijesinha (1968)	94
Karpany v Dietman (2013)	264, 265, 300
Kentwell v The Queen (2014)	365
King v Philcox (2015)	165
Kinnersley v Orpe (1780)	539
Kioa v West (1985)	341, 343
Kirk v Industrial Court (NSW) (2010) ...	93, 99, 100, 594, 596, 616, 640, 652
Kline v Official Secretary to the Governor-General (2013)	649
Knight v Knight (1971)	96
Knight v The Queen (1992)	54, 490
Knight v The Queen (2015)	565
Kotsis v Kotsis (1970)	96
Kruger v The Commonwealth (1997)	613-615, 617, 629-632
Ku-ring-gai Co-operative Building Society (No 12) Ltd, Re (1978)	200

Kuczborski v Queensland (2014)	593, 627, 638
Kuligowski v Metrobus (2004)	517, 537
Kuruma v The Queen (1955)	418
Lacey v Attorney-General (Qld) (2011)	265, 266, 366, 560, 581
Launceston Corporation v Hydro-Electric Commission (1959)	194
Lee v NSW Crime Commission (2013)	27, 388, 391, 394, 472, 476, 606
Lee v The Queen (2014)	384, 387, 394, 395, 399, 400, 468, 472, 477, 478
Leeth v The Commonwealth (1992)	556, 557, 594, 638
Legal Services Board v Gillespie-Jones (2013)	217, 232
Lindsay v The Queen (2015)	55, 74
Ling v The Commonwealth (1996)	517
Linsley v Petrie (1996)	533
Liverpool Insurance Co v Massachusetts (1870)	186, 187, 197
LNC Industries Ltd v BMW (Australia) Ltd (1983)	615
Longman v The Queen (1989)	66
Louth v Diprose (1992)	166
Lowndes v The Queen (1999)	365
Lujan (Secretary of Interior) v Defenders of Wildlife (1992)	626
M v The Queen (1994)	54, 75, 78, 501
Mabo v Queensland (1988)	288, 632
Mabo v Queensland [No 2] (1992) ...	264, 272, 274, 280, 282, 287, 288, 291, 296, 300, 301
Mackenzie-Kennedy v Air Council (1927)	186
Macks, Re; Ex parte Saint (2000)	95, 101
Maggbury Pty Ltd v Hafele Australia Pty Ltd (2001)	134
Malvaso v The Queen (1989)	359, 366-368
Markarian v The Queen (2005)	358, 360, 365, 564, 568, 670
Martin v Treacher (1886)	392
Mayer v Marchant (1973)	159, 168
McCulloch v Maryland (1819)	198
McDermott v The King (1948)	419
McGinty v Western Australia (1996)	390
McHale v Watson (1966)	164
McIlwain v Ramsey Food Packaging Pty Ltd [No 4] (2006)	527
McJannet, Re; Ex parte Minister for Employment, Training and Industrial Relations (Qld) (1995)	198
Medical Benefits Fund of Australia Ltd v Fisher (1984)	455
Meissner v The Queen (1995)	317, 319, 323
Mekpine Pty Ltd v Moreton Bay Regional Council (2012)	443
Mekpine Pty Ltd v Moreton Bay Regional Council (2014)	443, 452, 453
Mexborough, Earl of v Whitwood Urban District Council (1897)	392
Mill v The Queen (1988)	670, 677
Momcilovic v The Queen (2011)	325, 471, 595, 650
Moreton Bay Regional Council v Mekpine Pty Ltd (2013)	443, 457

TABLE OF CASES CITED

xxv

Mortimer v Brown (1970)	475
Moti v The Queen (2011)	424
Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd (2014) .	108, 118, 122, 124-126, 128-130
Muin v Refugee Review Tribunal (2002)	342
Muldrock v The Queen (2011)	665
Munda v Western Australia (2013)	359, 360
MZXDH v Minister for Immigration and Multicultural Affairs (2007)	332
Nair v Minister for Immigration and Multicultural Affairs (2001)	193
Nana Ofori Atta II v Nana Abu Bonsra II (1958)	539
National Insurance Co of New Zealand Ltd v Espagne (1961)	546
National Union of General and Municipal Workers v Gillian (1946)	186
Native Title Act Case (Western Australia v The Commonwealth) (1995) .	266, 272, 291, 300
NBNB v Minister for Immigration and Border Protection (2014)	342
Neal v The Queen (1982)	557
Nelungaloo Pty Ltd v The Commonwealth (1947)	93, 96, 99, 102
New South Wales v Ibbett (2006)	653
New South Wales v The Commonwealth (2006)	183
New South Wales v The Commonwealth (Incorporation Case) (1990)	183
Nicholas v Western Australia (1972)	110
Noor Mohamed v The King (1949)	418
Norcock v Bowey (1966)	159, 168
North Australian Aboriginal Justice Agency Ltd v Northern Territory (2015)	579
North Australian Aboriginal Legal Aid Service Inc v Bradley (2004)	615-618, 634, 637
North Ganalanja Aboriginal Corporation v Queensland (1996)	133
Northern Territory v GPAO (1999)	614, 616, 634
NSW Food Authority v Nutricia Australia Pty Ltd (2008)	399, 400
Offshore Processing Case (Plaintiff M61/2010E v The Commonwealth) (2010)	329, 340
O'Shane v Harbour Radio Pty Ltd (2013)	519
O'Sullivan v Farrer (1989)	591
Orme v Crockford (1824)	392
Oshlack v Richmond River Council (1998)	591
Outram v Morewood (1803)	519, 520
Paerau v Minister for Immigration and Border Protection (2014)	222
Papua and New Guinea, Administration of v Daera Guba (1973)	517
Parker v The Queen (1963)	504
Partridge v McIntosh & Sons Ltd (1933)	520
Peacock v The King (1911)	66
Pearce v The Queen (1998)	568, 670, 677, 678

Peldan v Anderson (2006)	454
Pelechowski v Registrar, Court of Appeal (NSW) (1999)	389
Perpetual Trustee Co Ltd v Bligh (1940)	547
Pfennig v The Queen (1995)	430
Pham v The Queen (2014)	554, 555, 561, 562, 566-568
Plaintiff M61/2010E v The Commonwealth (Offshore Processing Case) (2010)	329, 340
Plaintiff M76/2013 v Minister for Immigration, Multicultural Affairs and Citizenship (2013)	612
Plaintiff S10/2011 v Minister for Immigration and Citizenship (2012)	335, 336, 340
Plaintiff S156/2013 v Minister for Immigration and Border Protection (2014)	625
Plaintiff S157/2002 v The Commonwealth (2003)	604
Plaintiff S4/2014 v Minister for Immigration and Border Protection (2014)	20, 612
Plomp v The Queen (1963)	505
PMT Partners Pty Ltd (In liq) v Australian National Parks & Wildlife Service (1995)	29, 30, 33
PNJ v The Queen (2009)	519
Police (SA) v Dunstall (2013)	413, 414
Police (SA) v Dunstall (2013)	414, 423, 426
Police (SA) v Dunstall (2014)	414, 415, 421, 424, 426-428, 431, 433, 435
Police (SA) v Erwin (1997)	428
Police (SA) v Hall (2006)	416, 421, 422, 426, 427
Police (SA) v Jervis (1998)	426, 435
Police Service Board v Morris (1985)	475
Pollentine v Bleijie (2014)	611
Pollitt v The Queen (1992)	66
Pollock v The Queen (2010)	55
Port of Melbourne Authority v Anshun Pty Ltd (1981)	517, 518
Porter, Re; Re Transport Workers Union of Australia (1989)	145
Potter v Minahan (1908)	471, 581
Prenn v Simmonds (1971)	132
Project Blue Sky Inc v Australian Broadcasting Authority (1998) .	20, 22, 28, 217, 265, 606
Public Prosecutions (Cth), Director of v De La Rosa (2010)	558
Public Prosecutions (Vic), Director of v Arvanitidis (2008)	678
Public Prosecutions (Vic), Director of v Grabovac (1997)	677
Public Prosecutions (Vic), Director of v Karazisis (2010)	368
Public Transport Commission (NSW) v J Murray-More (NSW) Pty Ltd (1975)	232
Putland v The Queen (2004)	557
Queensland v The Commonwealth (1977)	630

R (GC) v Commissioner of Police of the Metropolis (2011)	591
R v Allpass (1993)	368, 369
R v Assaad (2009)	366
R v Associated Northern Collieries (1910)	380, 396
R v Australian Broadcasting Tribunal; Ex parte 2HD Pty Ltd (1979)	591
R v Beckett (2015)	317
R v Bernasconi (1915)	614, 632
R v Borkowski (2009)	366
R v Boston (1923)	309
R v Boyes (1861)	474
R v Broderick (1993)	73
R v C (1994)	361, 373
R v Chad (1997)	369
R v Chai (1992)	429
R v Chapple (1892)	309
R v Charles (1998)	318, 321, 322, 324, 325
R v Christie (1914)	417-420, 429, 430, 432, 435
R v Ciantar (2006)	499, 505
R v Clifford (2008)	369
R v CMB (2014)	355-357, 361-364, 366, 367, 370-373
R v Commonwealth Court of Conciliation and Arbitration; Ex parte Brisbane Tramways Co Ltd (Tramways Case [No 1]) (1914)	629
R v Crabbe (1985)	489
R v Craig (2003)	73
R v De Simoni (1981)	659-661, 665-667, 671, 675, 676, 679
R v Duncan; Ex parte Australian Iron & Steel Pty Ltd (1983)	193
R v Edelsten (1990)	417, 429
R v Edwards (2009)	420, 422, 434
R v Ellis (1986)	356, 358, 361, 362, 371, 373
R v Federal Court of Australia; Ex parte WA National Football League (1979)	181, 198-200
R v Filippou (2011)	51
R v Filippou (2011)	51, 80
R v Glennon (1992)	434
R v Hammoud (2000)	677
R v Harris (2007)	678
R v Hernando (2002)	359, 366, 367, 370
R v Hertfordshire County Council; Ex parte Green Environmental Industries Ltd (2000)	472
R v Hickman; Ex parte Fox (1945)	100
R v Hoad (1989)	679
R v Horseferry Road Magistrates' Court; Ex parte Bennett (1993)	434
R v Humby; Ex parte Rooney (1973)	95, 96, 99
R v Independent Broad-Based Anti-Corruption Commissioner (2015)	469, 479
R v Independent Broad-Based Anti-Corruption Commissioner (2015)	469

R v Inland Revenue Commissioners; Ex parte Preston (1985)	335
R v Inner London Quarter Sessions; Ex parte Metropolitan Police Commissioner (1969)	309
R v Isaacs (1997)	669
R v Jarrold (2010)	678
R v Jermyn (1985)	369, 370
R v JW (2010)	368, 370
R v Karageorge (1998)	319, 322, 323
R v Kirby; Ex parte Boilermakers' Society of Australia (Boilermakers' Case) (1956)	613, 614, 631, 632, 635-637
R v Kurtic (1996)	78
R v Lay (2006)	369
R v Lee (1950)	416, 418, 419, 429, 430, 432
R v Lobban (2000)	413-416, 426, 429, 430
R v MAK (2006)	670
R v McLean; Ex parte Attorney-General (Qld) (1990)	417, 419, 429
R v McNaughton (2006)	677
R v Moloney (1985)	490, 491
R v Moore (1973)	420
R v Murphy (1985)	315-319, 325
R v Nedrick (1985)	490
R v Nguyen (2004)	366
R v Nguyen (2013)	660, 661, 666-673, 675
R v Nguyen (2013)	660, 664, 665, 669, 672, 674
R v O'Donoghue (1988)	53
R v Olbrich (1999)	69-73, 561
R v OM (2011)	310, 314, 315
R v Pfitzner (1996)	430
R v Ping (2005)	489
R v Quinn; Ex parte Consolidated Foods Corporation (1977)	610
R v Rahme (1991)	369
R v Reid (2006)	487-489, 496, 498, 499, 501, 505
R v Rogerson (1992)	309, 314, 316-318, 320, 321
R v Sang (1980)	418, 429
R v Secretary of State for the Environment, Transport and the Regions; Ex parte Spath Home Ltd (2001)	591
R v Secretary of State for the Home Department; Ex parte Khan (1984) .	335
R v Secretary of State for the Home Department; Ex parte Ruddock (1987)	335
R v Selvage (1982)	316
R v Smith (2007)	357, 359, 367, 370
R v Storey (1996)	69
R v Swaffield (1998)	416, 429-432
R v Tait (1979)	360, 369
R v Trade Practices Tribunal; Ex parte Tasmanian Breweries Pty Ltd (1970)	516

TABLE OF CASES CITED

xxix

R v Vreones (1891)	316, 317
R v Wall (2002)	368
R v Willmot [No 2] (1985)	488-491, 501
R v Wilton (1981)	368, 369
R v Woollin (1998)	490
R v Zaburoni (2014)	487, 488, 495-503, 505
Raftland Pty Ltd as trustee of the Raftland Trust v Federal Commissioner of Taxation (2008)	548
Railways (NSW), Commissioner for v Agalianos (1955)	28, 135
Ramsay v Pigram (1968)	514-516, 518-522, 534, 535, 537, 540
Ramsey Food Processing Pty Ltd v Tomlinson (2014)	514, 515, 533, 534, 536, 540, 543
Rasanen v Rosemount Instruments Ltd (1994)	516
Reardon Smith Line Ltd v Hansen-Tangen (1976)	116, 117
Reeves v The Queen (2013)	74
Refugee Review Tribunal, Re; Ex parte Aala (2000)	341, 342
Registrar-General (NSW) v Behn (1981)	519
Reichel v Magrath (1889)	519
Residual Assco Group Ltd v Spalvins (2000)	33, 101, 604
Rich v Australian Securities and Investments Commission (2004)	396
Richards v Jenkins (1887)	521
Ridgeway v The Queen (1995)	417, 430
Rio Tinto Zinc Corporation v Westinghouse Electric Corporation (1978) ..	474
Roads and Traffic Authority (NSW) v Dederer (2007)	166
Rogers v The Queen (1994)	518
Roxborough v Rothmans of Pall Mall Australia Ltd (2001)	390, 519
Royal Botanic Gardens and Domain Trust v South Sydney City Council (2002)	134
Royer v Western Australia (2009)	677
Rozenes v Beljajev (1995)	417, 419, 420, 429
Ruhani v Director of Police (2005)	615
Russell v Russell (1976)	594
Ryan v The Queen (2001)	362
Saeed v Minister for Immigration and Citizenship (2010)	581, 649, 650
Sahab Holdings Pty Ltd v Registrar-General [No 2] (2012)	124, 128
Salemi v MacKellar [No 2] (1977)	335
Sandtara Pty Ltd v Abigroup Ltd (1997)	542
Saunders v United Kingdom (1996)	479
Schmidt v Secretary of State for Home Affairs (1969)	335
Sharrment Pty Ltd v Official Trustee in Bankruptcy (1988)	548
Shepherd v The Queen (1990)	66
Shiels v Blakeley (1986)	516
Shin Kobe Maru, Owners of v Empire Shipping Co Inc (1994)	21, 29
Simic v The Queen (1980)	77
SKA v The Queen (2011)	75, 501

Sorby v The Commonwealth (1983)	387, 394, 474
Sorrento Medical Service Pty Ltd v Chief Executive, Department of Main Roads (2007)	457
South Australia v O'Shea (1987)	334, 344
South Australia v Totani (2010)	594, 595, 619, 638
Spencer v Williams (1871)	538, 541
Spies v The Queen (2000)	500
Spratt v Hermes (1965)	615, 616, 630, 633-637
Stapleton v The Queen (1952)	504
State Electricity Commission (Vic) v City of South Melbourne (1968)	194
State Superannuation Board v Trade Practices Commission (1982)	200
Stead v State Government Insurance Commission (1986)	339, 341
Steel Co v Citizens for Better Environment (1998)	626
Stephens v The Queen (1985)	418
Subramaniam v The Queen (2004)	424
Sungravure Pty Ltd v Middle East Airlines Airliban SAL (1975)	315
Suttons Hospital Case (1611)	182
Svikart v Stewart (1994)	613, 634
Syme v The Commonwealth (1942)	252, 257
SZBEL v Minister for Immigration and Multicultural and Indigenous Affairs (2006)	336, 339
SZFDE v Minister for Immigration and Citizenship (2007)	230
Tabe v The Queen (2005)	255
Taff Vale Railway Co v Amalgamated Society of Railway Servants (1901)	186, 195
Tanning Research Laboratories Inc v O'Brien (1990)	122, 128
Tasmanian Dam Case (The Commonwealth v Tasmania) (1983)	200, 625
Taylor v Needham (1810)	520
Taylor v Owners – Strata Plan No 11564 (2014)	234
Telstra Corporation Ltd v The Commonwealth (2008)	253
Theophanous v The Commonwealth (2006)	474
Thoday v Thoday (1964)	517
Thomas v Mowbray (2007)	276, 638
Thompson v Australian Capital Television Pty Ltd (1996)	519
Thompson v Goold & Co (1910)	234
Tofilau v The Queen (2007)	430
Tomlinson v Ramsey Food Processing Pty Ltd (2013)	514
Tooheys Ltd v Commissioner of Stamp Duties (NSW) (1961)	128
Townsville Hospitals Board v Townsville City Council (1982)	194
Trade Practices Commission v Abbco Iceworks Pty Ltd (1994) .	391, 392, 397
Tramways Case [No 1] (R v Commonwealth Court of Conciliation and Arbitration; Ex parte Brisbane Tramways Co Ltd) (1914)	629
Trawl Industries of Australia Pty Ltd (In liq) v Effem Foods Pty Ltd (1992)	522, 535, 540-542
Trawl Industries of Australia v Effem Foods Pty Ltd (1992)	522, 541

TABLE OF CASES CITED

xxxi

Trobridge v Hardy (1955)	610
Uelese v Minister for Immigration and Citizenship (2012)	211, 212
Uelese v Minister for Immigration and Citizenship (2013) .	212, 213, 215, 231
Uelese v Minister for Immigration and Citizenship (2013)	212-214, 230
United States v Fisher (1805)	471
United States v Students Challenging Regulatory Agency Procedures (1973)	626
Valley Forge Christian College v Americans United for Separation of Church and State Inc (1982)	618, 626
Van der Meer v The Queen (1988)	430
Vaughan v Menlove (1837)	164
Veen v The Queen [No 2] (1988)	668
Victoria v The Commonwealth (1971)	630
Victorian Stevedoring & General Contracting Co Pty Ltd v Dignan (1931)	516
Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd (2013)	516, 519
Wacal Developments Pty Ltd v Realty Developments Pty Ltd (1978)	135
WACO v Minister for Immigration and Multicultural and Indigenous Affairs (2003)	342, 343
Wainohu v New South Wales (2011)	593-595, 619, 637
Wakim, Re; Ex parte McNally (1999)	614, 634
Walton v Gardiner (1993)	434, 519
Waltons Stores (Interstate) Ltd v Maher (1988)	166
Ward v Williams (1955)	645
Water Conservation and Irrigation Commission (NSW) v Browning (1947)	591, 609
Waterside Workers Federation of Australia v JW Alexander Ltd (1918) ...	613
Watson v Marshall (1971)	651
Weininger v The Queen (2003)	72, 73
Weiss v The Queen (2005)	53, 54, 74
Wellington Capital Ltd v Australian Securities and Investments Commission (2014)	302
Western Australia v Brown (2014)	254, 273, 277, 281, 282, 291, 292, 295, 296, 299-301, 303
Western Australia v The Commonwealth (Native Title Act Case) (1995) .	266, 272, 291, 300
Western Australia v Ward (2000)	273, 275, 277-279, 282, 286, 290, 291, 295, 303
Western Australia v Ward (2002) .	264, 265, 272-280, 282, 286, 288, 290-292, 294-297, 301, 303
Western Export Services Inc v Jireh International Pty Ltd (2011)	117, 132-134
White v Director of Public Prosecutions (WA) (2011)	253
Whitehorn v The Queen (1983)	54

Wickstead v Browne (1992)	532
Wickstead v Browne (1993)	532
Wik Peoples v Queensland (1996)	281, 282, 286, 288, 289, 291, 295, 296, 301
Williams v Hursey (1959)	186-188, 193
Williams v Spautz (1992)	424
Williams v The Commonwealth [No 2] (2014)	630
Williams v The King [No 2] (1934)	556
Williams v The Queen (1986)	586, 587, 610, 611, 648
Williamson v Ah On (1926)	420
Wilson v Anderson (2002)	265, 282, 295, 301
Witham v Holloway (1995)	388-390, 393, 395
Wong v The Queen (2001)	365, 431, 555, 558-560, 562, 564, 565, 678
Woods v Skyride Enterprises Pty Ltd (2012)	380
Woolley, Re; Ex parte Applicants M276/2003 (2004)	611, 622
Wright Prospecting Pty Ltd v Hamersley Iron Pty Ltd (2013) ..	108, 116, 123, 125, 129
Wright Prospecting Pty Ltd v Hamersley Iron Pty Ltd [No 2] (2013)	108
Wurridjal v The Commonwealth (2009)	628-630
WZARH v Minister for Immigration and Border Protection (2014) ..	331-334, 336, 338, 339
X (Minors) v Bedfordshire County Council (1995)	628
X7 v Australian Crime Commission (2013)	384, 387, 394, 395, 399, 400, 468, 471, 472
Yanner v Eaton (1999)	264, 266, 291, 300
Yat Tung Investment Co Ltd v Dao Heng Bank Ltd (1975)	518
Yorta Yorta Aboriginal Community, Members of v Victoria (2002) ..	274, 275
Young v Public Service Board (1982)	522, 523, 532, 534-536
Zhang v Minister for Immigration, Local Government and Ethnic Affairs (1993)	524
Zheng v Cai (2009)	265
Zhu v Treasurer (NSW) (2004)	117, 451