

W. H. WILSON

1959-1960

THE

COMMONWEALTH LAW REPORTS

CASES DETERMINED IN THE

HIGH COURT OF AUSTRALIA

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VOL. 103.

Australia :

THE LAW BOOK CO. OF AUSTRALASIA PTY LTD.

SYDNEY - - - - 140 PHILLIP STREET.
MELBOURNE - - - 456 LITTLE COLLINS STREET.
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Wholly set up and printed in Australia for
The Law Book Company of Australasia Pty Ltd.,
by Harston, Partridge & Co. Pty. Ltd., Printers,
455-7 Little Collins Street, Melbourne.

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OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

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Q.C., M.P.

THE LATE SIR WILFRED KELSHAM FULLAGAR

On 25th July 1961, the first day of the Sittings of the High Court in Sydney, DIXON C.J. said :

The sudden death on 9th July of SIR WILFRED KELSHAM FULLAGAR means the loss to the administration of justice of a great and scholarly judge deeply loved by all. It is impossible to overestimate the value of the contribution which from day to day he made to the work of this Court or the importance of the loss we have all suffered by his death.

His learning, the certainty of his grasp of legal principle and the width and profundity of his knowledge of the law are qualities which without more would have assured him a special position not only among his colleagues but among all who are concerned in the work of the law. But it was his fortune to combine a most lovable nature which won a place in the hearts of all of us with a powerful intelligence, clear and strong, and yet at the same time calm and deliberate in its processes.

A brilliant student, his mind had been enriched by a classical scholarship which did not desert him as the years advanced. His style of writing, formed doubtless by his classical training, gave an added distinction to his writings. No one sensitive to language can fail to perceive that his judgments not only were masterly embodiments of judicial reasoning but contained a singularly apt and felicitous use of English in the exposition of a legal subject.

He was called to the Bar in Victoria two years after the end of the first World War, in which he served in the Australian Field Artillery. It was not long before he began to make his mark as counsel and with increasing frequency his name appears in the law reports of the ensuing twenty years. There were, as time wore on, few cases of great constitutional or legal significance in which he did not appear as counsel. In addition he made his contribution to the teaching of law : for during the earlier part of this period he delivered lectures in Wrongs and Procedure in the University of Melbourne and towards the end of his forensic career he added to the burdens of a heavy practice some lectures in Constitutional Law. He seemed afterwards in looking back to find some satisfaction in having performed these academical duties.

At length at the end of July 1945 he became a judge of the Supreme Court of Victoria, having declined an invitation at an earlier date to accept an appointment to that Court. There he proved what all of us who knew him never doubted, namely his great capacity for the judicial office. The Victorian Law Reports of the next four years contain judgments of his which at once commanded attention.

Then at the beginning of 1950 he was appointed to this Court to take the place of Sir *Hayden Starke* who resigned. The Law Reports give striking evidence of the remarkable contribution to the law that SIR WILFRED FULLAGAR made in the eleven years that have elapsed. We who worked with him can but acknowledge our debt to him and our abiding sense of his exceptional qualities as a lawyer, a judge and a man. But there is witness from all sides of the great value placed upon his judicial work by those who had not the great good fortune to work with him at the Bar or on the Bench. No testimony to him has seemed to me more striking than a letter I have received from one of the greatest of the living judges of the United States. The writer says " ' The Times ' (of London) brings me the shocking news of Fullagar's death . . . So close was my professional communion with Fullagar, solely through the printed page, that I feel his death as a personal loss, though I never—to my great regret—laid eyes on him ". This indeed is witness from afar of the greatness of our loss. It is a loss to all Australia of a great man devoted to the service of the law.

Kipling, whose work he greatly favoured and knew, has written a verse with which I may fittingly end, being assured of its application and of its truth—" Let us now praise famous men . . . for their work continueth : Broad and deep continueth. Greater than their knowing ".

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