

1983-1984

THE
COMMONWEALTH
LAW REPORTS

CASES DETERMINED IN THE
HIGH COURT OF AUSTRALIA

EDITOR

J. D. MERRALLS, Q.C.

VOLUME 153

THE LAW BOOK COMPANY LIMITED

1985

REPORTERS:

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Published in Sydney by
The Law Book Company Limited
44-50 Waterloo Road, North Ryde, N.S.W.
389-393 Lonsdale Street, Melbourne, Victoria
40 Queen Street, Brisbane, Queensland
6 Sherwood Court, Perth, W.A.

ISSN 0069-7133

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Wholly set up and printed by
The Law Book Company Limited, Sydney, N.S.W.

JUSTICES OF THE HIGH COURT
OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

THE RIGHT HONOURABLE SIR HARRY TALBOT GIBBS, G.C.M.G., K.B.E.,
CHIEF JUSTICE.

THE RIGHT HONOURABLE SIR NINIAN MARTIN STEPHEN, K.B.E.
(resigned 11 May 1982).

THE HONOURABLE SIR ANTHONY FRANK MASON, K.B.E.

THE HONOURABLE LIONEL KEITH MURPHY.

THE HONOURABLE SIR KEITH ARTHUR AICKIN, K.B.E.
(died 18 June 1982).

THE HONOURABLE SIR RONALD DARLING WILSON, K.B.E., C.M.G.

THE HONOURABLE SIR FRANCIS GERARD BRENNAN, K.B.E.

THE HONOURABLE SIR WILLIAM PATRICK DEANE, K.B.E.
(appointed 25 June 1982).

THE HONOURABLE SIR DARYL MICHAEL DAWSON, K.B.E., C.B.
(appointed 30 July 1982).

ATTORNEY-GENERAL

SENATOR THE HONOURABLE PETER DREW DURACK, Q.C.

SENATOR THE HONOURABLE GARETH JOHN EVANS
(from 10 March 1983).

THE LATE SIR KEITH AICKIN.

On 22 June 1982, at a sitting of the Full High Court in Brisbane, GIBBS C.J. said:

Ladies and gentlemen, we are met to express our deep sorrow at the untimely death of SIR KEITH AICKIN whose funeral ceremony is taking place in Melbourne this afternoon and to pay our tribute to his memory. The presence here of so large a gathering indicates the great respect in which SIR KEITH was held.

There are present: The Honourable Neil Brown Q.C., M.P., the Minister for Communications who is representing the Attorney-General for the Commonwealth; the Chief Justice and seven Judges of the Supreme Court of Queensland; Mr. Justice Fitzgerald of the Federal Court of Australia; the Chairman of District Court Judges and ten Judges of the District Court; Mr. Dawson Q.C., the Solicitor-General for Victoria, who represents the Attorneys-General of Victoria, Tasmania and Western Australia; Mr. Galligan Q.C., the Solicitor-General for Queensland who represents the Attorneys-General of Queensland, South Australia and the Northern Territory; Mr. Pincus Q.C., Vice-President of the Australian Bar Association and President of the Queensland Bar; Mr. Mackay, President of the Law Council of Australia; Mr. Hampel Q.C., representing the Victorian Bar; Mr. Newman Q.C., representing the Attorney-General for New South Wales and the New South Wales Bar; Mr. Hill, the President of the Law Society of Queensland; Mr. Pyne, the Deputy Crown Solicitor for the Commonwealth who represents Mr. Neaves, the Secretary of the Attorney-General's Department; and many members of the profession.

In addition, there are present members of SIR KEITH'S personal staff and the wives of those members of this Court who are present in Brisbane.

Sir Anthony Mason is overseas and apologizes that he cannot be here, but I speak on his behalf as well as on behalf of the other members of this Court who were colleagues of SIR KEITH at the time of his death.

KEITH ARTHUR AICKIN was born on 1 February 1916, the son of a master of mathematics and science at the Melbourne

Church of England Grammar School which SIR KEITH himself attended. From that school he proceeded to the University of Melbourne where, after a brilliant course, he obtained first-class honours in Law and was awarded the Supreme Court Prize. That was in 1938 and in the following year he became Associate to Sir Owen Dixon with whom he remained in that capacity until 1941.

When Sir Owen was appointed Minister Plenipotentiary to the United States, SIR KEITH accompanied him as Third Secretary of the legation in Washington, and thereafter served as legal advisor to the European office of the United Nations Relief and Rehabilitation Administration and in the legal department of the United Nations in New York.

In 1948 he was called to the Bar of the Middle Temple and in 1949 he commenced practice at the Bar of Victoria. SIR KEITH's rise at the Bar was rapid as befitted his ability and attainments. After only eight years' practice as a junior he took silk in 1957. His practice became very extensive and his lucid, logical and compelling arguments soon made him recognized as one of the most brilliant of advocates while at the same time his opinions were universally respected for their soundness and accuracy.

He appeared in many of the most important constitutional, commercial and taxation cases in this Court and in the Privy Council, and was one of the few members of the Australian Bar who have appeared before the House of Lords.

It is in no way disrespectful of SIR KEITH's contemporaries at the Bar to say that by the time of his appointment to this Court he was the most distinguished barrister in practice in Australia. His appointment was inevitable. Indeed, many thought it belated.

In the meantime, SIR KEITH had found time to add commercial interests to the demands of his busy practice. He became a director of a number of large companies, Mayne Nickless Ltd., P. & O. Australia Ltd., Comalco Ltd. and B.H.P. Co. Ltd. He also became a member of the Interim Council of La Trobe University.

On 20 September 1976, on the retirement of Sir Edward McTiernan, SIR KEITH became a member of this Court. In

the same year, he was created a Knight Commander of the Order of the British Empire.

As was expected, he was an exemplary judge. He listened with quiet courtesy and attentive patience to the arguments of counsel. His judgments were marked by clarity of expression and by meticulous care in preparation and construction. His firm grasp of legal principle was matched by an appreciation of the practical consequences of the decision in the particular case. He was firm in his views and never failed to reach, or where necessary to express, his own independent conclusion but did not seek the limelight and did not hesitate to agree with another's judgment when he felt he could not usefully add to it.

He was unremitting in his devotion to duty and willingly bore any burden he was asked to assume. Thus, in addition to his work at the ordinary sittings of the High Court, he disposed of the chamber work that arose in Melbourne even when he was the only judge sitting there to do so. He devoted much time to a consideration of the improvement of the rules of the High Court.

SIR KEITH'S strength and serenity of character informed his acts both as a judge and as a man. He was a loyal and co-operative colleague and a great judge. He said when he was appointed to the Bench that he would devote his best endeavour to seek to maintain the high standards and reputation of this Court. In that, he amply succeeded, but his career on the Bench was cut short at its height. Much more distinguished service had confidently been expected from him.

The community has lost a valuable servant and his death has caused a gap in the Court which it will be difficult to fill. The Court mourns his passing and extends its deepest sympathy to his widow, Lady Aickin, and their two children in their sad loss.

The Court will now adjourn.

The mode of citation of this volume of
the COMMONWEALTH LAW REPORTS will be as follows:
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- Parashuram Detaram Shamdasani v. King-Emperor*, [1945] A.C. 264, at p. 270. Applied 153 C.L.R. 682.
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- *v. Castro; Skipworth's Case* (1873), L.R. 9 Q.B. 219, at p. 232. Applied 153 C.L.R. 682.
- *v. Day* (1983), 9 A. Crim. R. 445. Affirmed 153 C.L.R. 475.
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- Reid v. The Queen*, [1980] A.C. 343, at pp. 349-350. Applied 153 C.L.R. 317.
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- Sargent v. A.S.L. Developments Ltd.* (1974), 131 C.L.R. 634, at p. 641. Applied 153 C.L.R. 438.
- Sheridan v. Nikolic*, [1982] Qd. R. 725. Considered 153 C.L.R. 153.
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- Tradax Export S.A. v. Volkswagenwerk A.G.*, [1970] 1 Q.B. 537. Applied 153 C.L.R. 455.
- Victoria v. The Commonwealth* (1937), 58 C.L.R. 618, at p. 630. Applied 153 C.L.R. 280.
- Whitehorn v. The Queen* (1983), 152 C.L.R. 657. Applied 153 C.L.R. 521.
- Wilde v. Menville Pty. Ltd.* (1981), 50 F.L.R. 380. Overruled 153 C.L.R. 506.
- Wilson v. Attorney-General (N.Z.)*, [1938] N.Z.L.R. 496. Applied 153 C.L.R. 631.

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CORRIGENDA

- 150 C.L.R., page 381, line 20: For “though” read “thought”.
- 152 C.L.R., page 59, line 27: For “ture” read “true”.
- 152 C.L.R., page 109, line 6 from foot: For “*Le*” read “*Li*”.
- 152 C.L.R., page 179, catchwords, line 8: Disregard “(1)”.
- 152 C.L.R., page 198, line 6: For “*McLelland*” read “*McLellan*”.
- 152 C.L.R., page 312, footnote (92): For “(1890)” read “(1896)”; for “818” read “819”.
- 152 C.L.R., page 339, footnote (76): For “[1969]” read “[1967]”.
- 153 C.L.R., page 34, footnote (95): For “19” read “191”.
- 153 C.L.R., page 148, footnote (69): For “674” read “694”.
- 153 C.L.R., page 168, catchwords: For “(62 & 63 Vict. c. 12)” read “(63 & 64 Vict. c. 12)”.
- 153 C.L.R., page 280, headnote, par. 2, line 4: For “Section 13” read “Section 9”.
- 153 C.L.R., page 280, headnote, par. 2, line 9: Insert inverted commas after “life.”.
- 153 C.L.R., page 304, footnote (24): For “29” read “129”.
- 153 C.L.R., page 313, footnote (65): For “(1977) 140 C.L.R., at p. 410” read “(1971) 122 C.L.R., at p. 410”.
- 153 C.L.R., page 373, footnote (90): For “[1853]” read “[1893]”.
- 153 C.L.R., page 395, line 2 from foot: For “*Foster*” read “*Reg. v. Foster*”.

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