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JUSTICES OF THE HIGH COURT
OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

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

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

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

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ATTORNEY-GENERAL

THE HONOURABLE LIONEL FROST BOWEN, M.P.

THE LATE SIR VICTOR WINDEYER

On 1 December 1987, at a sitting of the Full High Court in Canberra, MASON C.J. said:

It is fitting that this morning at the commencement of this sittings of the Court we should express our tribute to Sir VICTOR WINDEYER, an outstanding judge and soldier, who died on Monday, 23 November 1987 after a short illness. Sir Harry Gibbs who sat with SIR VICTOR as a Justice of this Court is sitting with us. We are particularly pleased that SIR VICTOR'S three sons are also in attendance this morning.

SIR VICTOR was born at Sydney on 28 July 1900. Educated at Sydney Grammar School, he graduated from the University of Sydney as a Master of Arts and Bachelor of Laws with the University Medal in History in 1922. He was admitted to the New South Wales Bar in 1925 and quickly established a wide-ranging practice in common law and equity. He was appointed Queen's Counsel in 1949 and appeared in many important cases.

SIR VICTOR'S abiding interest in the law was academic and historical as well as professional. He was Lecturer in Legal History at the University of Sydney from 1929 to 1936 and Lecturer in Equity from 1937 to 1940. He was the author of *Lectures in Legal History*, a book well known to generations of law students. He was a highly regarded legal historian and was for some time Vice-President of the Selden Society. His interest in history was by no means confined to the law and he was made an Honorary Fellow of the Royal Australian Historical Society in 1944.

He made a valuable contribution to education. He was for many years a Trustee of the Sydney Grammar School. He was a Fellow of the Senate of the University of Sydney, being Deputy Chancellor of the University from 1955 to 1958. From 1951 to 1955 he served as a Councillor of the Australian National University.

His military career began with the Australian militia. He joined the Sydney University Regiment at an early age and became Commanding Officer of the Regiment in 1937. During the Second World War he served with great distinction in the 9th Australian Division of the Australian Imperial Force both in the Middle East and Papua-New Guinea, commanding the 2/48th Battalion, and later the 20th Infantry Brigade. As a

military commander he won the unqualified respect and loyalty of the men and women with whom he served. For his military service he was awarded the Distinguished Service Order and Bar in 1942 and was made a Commander of the Order of the British Empire in 1944 and a Companion of the Order of the Bath in 1953. He later rose to the rank of Major-General.

In 1958 SIR VICTOR was appointed a Justice of this Court where he served for fourteen years before his retirement in 1972. He was knighted in 1958 and became a Privy Councillor in 1963, later sitting as a member of the Judicial Committee in 1972.

It is not for us on this occasion to dwell at length on SIR VICTOR's contribution to the law. But, we can say, without any fear of contradiction, that his judgments as a Justice of this Court have been acclaimed, not only in Australia but elsewhere in the common law world. He brought to his work in this Court a profound understanding of the law, stemming from his appreciation of its historical development. His sense of history and his knowledge of literature and the classics strengthened his capacity to articulate the law and explain its place in society. Above all else SIR VICTOR was a scholar and his judgments bear testimony to that scholarship.

They are notable also for their literary grace and style. Following SIR VICTOR's retirement in 1972, Sir Ninian Stephen said on the occasion of his swearing-in in the same year, when confessing to a sense of personal inadequacy which events were to prove quite unfounded: "Especially is this so as my appointment follows the retirement of SIR VICTOR WINDEYER whose great scholarship and mastery of the written word have long turned law into literature in his judgments while losing nothing in the process." While SIR VICTOR will always be remembered for his scholarship and literary style, at the same time his judgments are a valuable repository of insights into the workings of our system of government, insights that were the product of deep learning and a mature reflection.

SIR VICTOR was by any account a great Australian, an outstanding soldier and a judge whose work contributed to the development of Australian law and enhanced the reputation of this Court.

In conclusion we express our deepest sympathy to Lady Windeyer and to the members of his family.

The mode of citation of this volume of
the COMMONWEALTH LAW REPORTS will be as follows:
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- Victoria v. The Commonwealth* (1971), 122 C.L.R. 353.
Considered 163 C.L.R. 329.
- W. T. Ramsay Ltd. v. Inland Revenue Commissioners*, [1982] A.C. 300.
Applied 163 C.L.R. 640.
- Wasson v. Commercial & General Acceptance Ltd.* (1985), 2 N.S.W.L.R. 206.
Affirmed 163 C.L.R. 303.
- Waterford v. Department of the Treasury* (1985), 5 F.C.R. 76.
Affirmed 163 C.L.R. 54.
- Wilkinson v. Cutmore; Ex parte Wilkinson*, [1976] Qd R. 62.
Considered 163 C.L.R. 561.

ADDENDUM

161 C.L.R., page 216. After further argument before Mason A.C.J., and Wilson and Deane JJ. on 3 October 1986, it was ordered under O. 29, r. 11 of the High Court Rules that the third paragraph of the order made on 6 May 1986 be vacated and that in lieu thereof it be ordered:

- (1) *Set aside the judgment and order of the Full Court of the Federal Court of Australia dated 29 May 1984, except for par. 4, and in lieu thereof order:*
 - (i) *that the appeal to that Court, except so far as it relates to the issues relating to the Trade Practices Act 1974, be dismissed;*
 - (ii) *that the judgment and order of Beaumont J., except so far as it related to issues relating to the Trade Practices Act 1974 be restored.*
- (2) *Order that the matter be referred to the Full Court of the Federal Court of Australia to hear and determine the question of the costs of the appeal before that Court and of the proceedings before Beaumont J.*

CORRIGENDA

163 C.L.R., page 97: The first line of the third paragraph was omitted. It should read: "However, those qualifications point, particularly in the case of".

163 C.L.R., page 279, line 2: For "*Fisher*" read "*Fisher v. Fisher*".

163 C.L.R., page 287, line 14: For "*In the Marriage of Mills (38)*" read "*In the Marriage of Mills (27)*".

163 C.L.R., page 329, line 8 of catchwords: For "s. 51(ii), (xxxvi), (xxxix)" read "ss. 51(ii), (xxxvi), (xxxix), 55".

163 C.L.R., page 340, sidenote: Insert "Mason C.J." above "Wilson J."

163 C.L.R., page 358, line 4: For "(19)" read "(20)".

163 C.L.R., page 358, line 6: For "(20)" read "(21)".

163 C.L.R., page 358, line 18: Omit "(21)".

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