

1998

THE
COMMONWEALTH
LAW REPORTS

CASES DETERMINED IN THE
HIGH COURT OF AUSTRALIA

EDITOR
J D MERRALLS, AM, QC

VOLUME 193

LBC INFORMATION SERVICES

1999

REPORTERS

D J BATT
M Y BEARMAN
C M CALEO
G S CLARKE
J D ELLIOTT
G B JOHNSTON
S G E MCLEISH
M K MOSHINSKY

Barristers-at-Law

PRODUCTION SUPERVISOR

CAROLYN MAY

Published in Sydney by
LBC Information Services
100 Harris Street, Pyrmont, NSW
560 Lonsdale Street, Melbourne, Vic
239 George Street, Brisbane, Queensland
77 St George's Terrace, Perth, WA

ISSN 0069-7133

© 1999 Thomson Professional Information Asia Pacific Pty Ltd
t/as LBC Information Services

Typeset by LBC Information Services, Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW

JUSTICES OF THE HIGH COURT OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

THE HONOURABLE SIR FRANCIS GERARD BRENNAN, AC, KBE
CHIEF JUSTICE (retired 21 May 1998)

THE HONOURABLE ANTHONY MURRAY GLEESON, AC, CHIEF
JUSTICE (appointed 22 May 1998)

THE HONOURABLE SIR DARYL MICHAEL DAWSON, AC, KBE,
CB (resigned 15 August 1997)

THE HONOURABLE JOHN LESLIE TOOHEY, AC (resigned
2 February 1998)

THE HONOURABLE MARY GENEVIEVE GAUDRON

THE HONOURABLE MICHAEL HUDSON MCHUGH, AC

THE HONOURABLE WILLIAM MONTAGUE CHARLES GUMMOW,
AC

THE HONOURABLE MICHAEL DONALD KIRBY, AC, CMG

THE HONOURABLE KENNETH MADISON HAYNE (appointed
22 September 1997)

THE HONOURABLE IAN DAVID FRANCIS CALLINAN (appointed
3 February 1998)

ATTORNEY-GENERAL

THE HONOURABLE DARYL ROBERT WILLIAMS, AM, QC, MP

MEMORANDA

- 1998
- May 21 — Retirement of THE HONOURABLE SIR FRANCIS GERARD BRENNAN, AC, KBE, from the office of Chief Justice of the High Court of Australia.
- May 22 — Appointment of THE HONOURABLE ANTHONY MURRAY GLEESON, AC, Chief Justice of the Supreme Court of New South Wales, to the office of Chief Justice of the High Court of Australia.

RETIREMENT OF CHIEF JUSTICE SIR GERARD BRENNAN

On Thursday, 21 May 1998, to mark the retirement of the Honourable SIR GERARD BRENNAN AC, KBE, from the office of Chief Justice of the High Court of Australia, farewell addresses were delivered before the High Court in Canberra by the Honourable D R WILLIAMS AM, QC, MP, Attorney-General for the Commonwealth, Mr B W WALKER SC, President of the Law Council of Australia, and Mr R W GOTTERSON, President of the Australian Bar Association and of the Queensland Bar Association.

In reply, SIR GERARD BRENNAN said:—

Thank you all for the extremely generous remarks you have made. Your submissions are usually much more accurate but, enjoying the extravagant spirit of the occasion, I propose to accept them in their entirety, though I would act upon them at my peril.

I must say in the first place that I am delighted that we are sitting here today, Mr Attorney, in a courtroom, the roof of which does not leak. It was not ever so and, indeed, on the last occasion when I presided in this Court, counsel, and I fear sometimes the Justices, were distracted by the signs of slithers of silver coming down from the roof and landing somewhere between the Bar table and this Bench. That has now happily come to pass. As to the products that this grocery shop may produce from time to time, I hope they are to the likings of the customers.

I accept the submissions that you have made because they are offered as an expression of respect by Government, by the legal profession and by the Australian Bar for the holder of the office of Chief Justice. Respect for that office and for the Court in which the Chief Justice presides is a condition of the Court's ability to discharge effectively its constitutional duty to quell disputes by the application of the law. Occasions of this kind, though they tend to focus on the incumbent of the office, have a wider significance when they are seen as a public declaration of respect for the institution.

On behalf of the Court, I welcome the large and distinguished gathering in attendance here this morning. First, I welcome his Excellency, the Governor General and Lady Deane. I was privileged to sit with His Excellency on this Court and on the Federal Court of Australia for many years. They were years of intense legal interest and, I venture to believe, they fostered an abiding friendship. I thank him and Lady Deane for choosing to be with us today in the character of beloved colleagues, recapturing for the moment the common period of judicial service.

I welcome the President of the Senate and the Speaker of the House of Representatives who, by their presence, affirm on behalf of the Parliament as I affirm on behalf of the Court, the mutual respect which the branches of Government must have and demonstrate for the powers and functions of each. Mutual respect is the necessary acknowledgment of the constitutional distribution of powers and the manifesting of mutual respect accords with the expectation of the Australian people.

No decision of this Court refuses to follow an expression of the Parliament's legislative will, properly construed and within power. But it must be remembered that the construction of the Parliament's statutory expression of its will, the scope of its powers and the scope of the powers which Parliament confers on the Executive Government are firmly within the jurisdiction of the courts — including, of course, this Court. That jurisdiction is basic to the constitutional separation of powers. The rules of construction and constitutional doctrine are applied by the courts for the purpose of accurately perceiving the will of the Parliament as the Parliament has expressed it and ensuring that the Constitution — the charter of the political power of the people — is faithfully observed.

I welcome his Excellency, the Dean of the Diplomatic Corps. The links between this Court and the courts of other nations have grown in recent years. As the courts administer the laws embodying the ethos of each nation, the better the understanding of the actual workings of a nation's courts, the deeper the understanding of its values, its laws, its government and the relationships of its people. In recent years, some Justices have visited overseas courts and universities to examine concepts that are current in the legal systems of other countries. Thus the tyranny of distance and the risk of intellectual isolation has been lessened.

I welcome the retired Chief Justices and Justices of this Court. I have been privileged to sit with each of those distinguished judges. By their learning, integrity and intellect I have been instructed. It is a pleasure to sit again with them at this Bench, however briefly, and to recall the friendship which accompanied the performance of our curial duties. With them, I welcome Lady Stephen, Mrs Murphy, Lady Dawson and Mrs Toohey who have graced us in the past.

I welcome the Chief Justices of the superior Courts of the Commonwealth and of the States and Territories, whose presence here is a tangible reminder of the integration of the judicial system of this nation and of the solidarity of a national judiciary who are at one in their commitment to independence and impartiality in the administration of justice according to law.

I welcome especially the Chief Justice of New Zealand, Sir Thomas Eichelbaum who, as a member of the Council of Chief Justices of Australia and New Zealand, contributes not only the wisdom of his advice but the experience of the courts in that country whose judicial method most closely accords with our own.

I welcome the Bar and the Solicitors of this Court on whose knowledge, insights and industry this Court heavily depends. It is right that, as I leave this Bench, I should express my profound appreciation of the assistance I have derived from the careful preparation of cases by solicitors; from the incisive, fearless and courteous advocacy of counsel and from the illumination of problems that emerges from the joint efforts of both. It will not be taken amiss if I note with regret the absence from the Bar table of Sir Maurice Byers, a friend of many years, who is presently indisposed. His participation in the work of this Court was perhaps no less on that side of the Bar table than it would have been on this.

I welcome the many judicial and personal friends, including my Associates, past and present, for whose company on this day I am especially grateful. There are many with whom I practised at the Queensland Bar, including Sir Dormer

Andrews, latterly Chief Justice of Queensland. He admitted me to his chambers and his advice forty-six years ago. It is a pleasure to see these friends here today.

I will be pardoned for not expressing publicly sentiments about my family — my wife, my children and their spouses, my grandchildren and my sisters. Those sentiments belong to the deep intimacies of family life and they cannot be shared without depreciation of the gratitude I owe and the love I bear them.

Finally, I welcome the members of the public who come to this Court, as they do to every court in the Commonwealth, as of right. It is for the service of the people that the courts are created and perform their functions. The courts sit in public, think and write in private, then publishes to all the world their decisions and their reasons. No other branch of government responds so unfailingly to every application within its jurisdiction nor gives so adequate an explanation of the reasons for its decisions. The courts must be available to serve the litigants by quelling their disputes, else raw power prevails untrammelled by the rule of law.

The agenda of the courts are defined by the litigants. The courts decide the controversies that the people bring to the courts for decision. They are the people's problems. The Court has no agenda of its own. But, as the issues that arise for decision are contemporary issues arising in contemporary circumstances, the work of the Court in each generation reflects that generation's concerns.

Patterns of litigation are not hard to perceive, especially in the area of public law. In the years between the two World Wars, when the sense of Australian nationhood was gaining firm ground, there were controversies about the extent of Commonwealth legislative power; in times of war, the focus of litigation was often on the scope of Commonwealth power in respect of defence; in the period since the Second World War, which has seen a massive growth in governmental regulation and governmental benefits, the law of judicial review of administrative action has been greatly developed; then the growing community and international concerns with human rights and with the environment have evoked major judicial examination of the relevant laws. It is foreseeable that the growth of international law, the negotiation of treaties on a wide diversity of subjects and the legislative incorporation of international instruments in domestic statutes will give rise to an expanded jurisprudence affecting the relationship between international and domestic law. Thus the cases that are brought forward for determination can be related to the social issues of the time.

They are brought forward by litigants seeking a resolution of their disputes; and so it is with every case. The Court's role is responsive to the invocation of its jurisdiction. One of the advantages of the Court's responsiveness is that it is kept abreast of contemporary issues — not by formulating an agenda but by the demands of the litigants. Then the Court must find and apply the relevant legal rule to resolve the dispute — not a rule to fit a particular case on the day of judgment but a general rule in terms which can be applied in contemporary litigation to resolve all contemporary controversies of the same kind.

The courts do not have a free hand in formulating the rules to be applied. The courts are bound by the text of the Constitution, by the terms of a valid statute and by the history and precedents that constitute what I once called "the

skeleton of principle which gives the body of our law its shape and internal consistency.

In construing the Constitution, this Court has had to construe the spare text in order to answer contemporary problems. It was always intended that it would be so. Ninety-six years ago, when Attorney-General Deakin spoke on the second reading of the Judiciary Bill for the constitution of this Court, he observed that:

“the nation lives, grows, and expands. Its circumstances change, its needs alter, and its problems present themselves with new faces. The organ of the national life which, preserving the union, is yet able from time to time to transfuse into it the fresh blood of the living present, is the Judiciary. . . . It is as one of the organs of Government which enables the Constitution to grow and to be adapted to the changeful necessities and circumstances of generation after generation that the High Court operates.”

At first, the founding Justices, whose portraits hang above us in this courtroom today, read the text of the Constitution through the prism of their experience in securing the approval of six self-governing colonies to bring the Commonwealth into being. It was understandable that they should do so. Reading the text through those eyes, they espoused the doctrine of State reserved powers and implied immunities.

In time, with the First World War, the economic and commercial integration of the States and the growing sense of national identity, the doctrine of reserved powers was discarded in the *Engineers' Case* (1). Changing conditions exposed the true meaning of the text. Sir Victor Windeyer, in the *Payroll Tax Case*, explained that the discarding of the doctrine of the implied immunity of the States occurred “because in 1920 the Constitution was read in a new light, a light reflected from events that had, over twenty years, led to a growing realisation that Australians were now one people and Australia one country and that national laws might meet national needs.” (2)

In recent times, this Court has looked to the history of the constitutional text to identify the subject to which the language is directed and the nature and objectives of the federal movement. It has looked to the purpose of a provision so far as that can be elicited from the text. It has sought to examine the Constitution with that strict logic and high technique of which Sir Owen Dixon spoke. That is the judicial method that keeps the law in a state of good repair.

When the courts are dealing with the common law — the law created and developed at first by English judges and, in more recent times, chiefly by Australian judges — the rules of law have been changed in response to changing circumstances. It must be so, else the law would moulder into irrelevancy or, worse, produce or perpetuate injustice. Sometimes the argument is advanced that the renewal of the common law in the hands of the judges is a new departure — an attempt at social engineering that is at odds with Sir Owen Dixon’s rigorous insistence on “strict and complete legalism”. It should be remembered that the strict and complete legalism of which Sir Owen spoke pre-

(1) *Amalgamated Society of Engineers v Adelaide Steamship Co Ltd* (1920) 28 CLR 129.

(2) *Victoria v The Commonwealth* (1971) 122 CLR 353 at 396.

supposed — to use his own words — the existence of ‘‘a definite system of accepted knowledge or thought and that judgments and other legal writings are evidence of its content’’. But the law is not an ever-expanding cosmos containing rules for the solution of the problems of every generation and awaiting only a judicial telescope to capture their text. As each generation faces new problems, the rules must be crafted by the judges of the time.

This is pre-eminently the work of the High Court. If the law already provided a full panoply of appropriate and applicable rules, the occasions for this Court’s interventions would be few indeed. But the Court cannot refrain from determining matters within its jurisdiction simply because a new rule has to be devised for the purpose. To perform this function the Justices must master the existing authorities and from them elicit the underlying principle. In some cases it is necessary to perceive, if not to articulate, the community value which gives vitality to the law in question. Then, provided the value is consistent with enduring community values, the principle must be re-examined and, if need be, it must be restated in contemporary terms that can be integrated with other legal principles and a new rule, appropriate to the case in hand and expressed to apply to the instant and future similar cases, is formulated. This work, though conceptual in nature, requires more than intellectual rigour. It requires the wisdom which each Justice must bring to the task.

It has been my privilege to engage with and to be stimulated by the colleagues, past and present, who sit with me this morning. It has been a privilege impossible to convey in words for it is based in the acknowledged integrity and industry of colleagues whose work is done in the privacy of their chambers and in the isolation of each judicial conscience. The increasing burden of work places great strains on the judicial resources. The devotion of my colleagues to their duties has been a continuing encouragement in the performance of my own.

For the years of intellectual stimulation and personal friendship which I have enjoyed on this Court I give my thanks to my judicial colleagues past and present.

I thank the Chief Executive and Principal Registrar, Mr Christopher Doogan, whose efficiency and advice have steered the administration of this Court during my term as Chief Justice. I thank the Registrars and their staffs who keep the machinery of the Court in efficient working order. I thank the administrative staff and the attendants who introduce the visiting public to this building. I thank my personal staff including the Associates who have worked so constructively with me on judgments in this Court, in the Federal Court and in the Administrative Appeals Tribunal. I thank especially for her loyalty and devotion Ms Nessie Birchley, who has been with me all the years on this Court, and I thank Mr Luigi Cartolano, not only for transport but for friendship. And most of all I thank the people of Australia for the opportunity of being a member of, and presiding over, a court which exercises its authority not to control but to serve; not to achieve a policy objective but to maintain a society where peace, order and good government are based on the rule of law. To have contributed to that endeavour has been a high honour and if, to some extent, that contribution has been beneficial, I am fortunate indeed. And if it be found that, unremarked by the generous comments from the Bar table, I have committed errors or made omissions, my only explanation can be: I did it my way.

I extend my warm congratulations to Chief Justice Gleeson as he assumes this office on the morrow. He will find it a challenge but, I doubt not, like me he will find it a privilege.

The Court will now adjourn.

SWEARING IN OF CHIEF JUSTICE GLEESON

On Friday, 22 May 1998, in the High Court at Canberra, the Honourable ANTHONY MURRAY GLEESON AC took the oaths of office of Chief Justice of the High Court of Australia. Addresses of congratulations were delivered by the Honourable D R WILLIAMS AM, QC, MP, Attorney-General for the Commonwealth, Mr B W WALKER SC, President of the Law Council of Australia, Mr R W GOTTERSON QC, President of the Australian Bar Association, and Mr I McC BARKER QC, President of the New South Wales Bar Association.

In reply, CHIEF JUSTICE GLEESON said:—

Mr Attorney for the Commonwealth, your Honours, Mr Walker, Mr Gotterson, Mr Barker, ladies and gentlemen, I am most grateful for your presence, for the goodwill that you have demonstrated, and for the generous remarks that have been made this morning. I have attended, as a barrister and later as a Chief Justice, many ceremonies for the swearing-in of judges. Although they have some of the external form of court proceedings, they do not represent the adversary system in its full rigour. The procedure on occasions such as this makes no provision for a contradictor. That is something I have not overlooked whilst listening to the speeches of welcome. Only one side of the case has been put. I know better than anyone of the arguments that could have been put on the other side.

I am honoured, and the Court is honoured, by the presence of their Excellencies the Governor-General and Lady Deane, the Prime Minister, the President of the Senate, the Speaker of the House of Representatives, His Excellency the Dean of the Diplomatic Corps, Sir Harry Gibbs, Sir Anthony Mason, Sir Gerard Brennan, Sir Ninian Stephen, Sir Daryl Dawson, the Honourable John Toohey and the members of the Council of Chief Justices of Australia and New Zealand. The attendance of many of my friends and family, including my mother, and my judicial and professional colleagues, most of whom have travelled a considerable distance to be here, is a source of immense pleasure. Of special importance to me is the presence of my wife Robyn and our four children.

I am delighted that the retiring Chief Justice, Sir Gerard Brennan, has joined us. The tributes that were paid to him yesterday testified to the enormous contribution he has made to the administration of justice in Australia and to the development of the common law. He was an ornament to the Australian judiciary, and will be greatly missed. I wish to express my gratitude to my new judicial colleagues for the generosity of the welcome they have extended to me, individually and collectively. It is a privilege to be given an opportunity to share in their work.

We are living in a time of challenge to everybody concerned with the administration of civil and criminal justice. This is a rights-conscious, litigious age, in which all manner of disappointments and grievances are promoted as grounds for legal redress, and the courts are made battlegrounds in social, economic and commercial conflict. The court system is struggling to cope with

a remorselessly expanding caseload. The law, and legal procedures, are required to respond, in a principled fashion, to new expectations and new realities.

At the same time as civil litigation is increasing in volume and complexity, the administration of criminal justice, especially in the area of sentencing, is becoming a political issue, and the work of the courts, and of individual judges and magistrates, is being subjected to intensive scrutiny. The efficiency and economy with which the justice system operates has become a major issue of public administration.

Judges and magistrates accept that it is part of the responsibility of the judiciary to work with governments, the legal profession, and other interested parties to address these issues. Maintaining our separateness and our independence is necessary; but it is not enough. Some of the things that need to be done to improve the system and to assist it to cope with the demands now made upon it can only be done by the judiciary. Trial judges have extensive powers available for the control of litigation, and are now much less inclined to act as spectators, while the lawyers and the parties decide the manner in which a case will proceed. Courts as institutions are active in developing systems for the management of their lists. Most of the law concerning legal procedure was originally judge made. If judges could make it, to suit former circumstances, then they can change it to suit changed circumstances.

Litigation is only one means, and often a very imperfect means, of achieving justice. In the last resort, however, the citizen's right of recourse to the courts, when in conflict with a fellow citizen, or with government, is what upholds the rule of law. The maintenance of a viable and accessible justice system is not a responsibility that judges can leave to others, contenting themselves with deciding individual cases as and when they reach the head of a queue.

The judiciary and court administrators have shown leadership in applying technology to improve the efficiency of the Australian legal system.

At a meeting some two years ago the Council of Chief Justices noted that modern information technology might be used to increase the efficiency of the appellate process by enabling material to be transmitted from court to court and ultimately to the High Court in electronic form. The Council established a working party of court administrators and technology consultants to advise it. That work became the Electronic Appeals Project. At our meeting on 20 May 1998, the Council of Chief Justices agreed in principle to the recommendations of the working party with a view to securing the availability of what will, in effect, be electronic appeal books in all Australian superior courts. It was agreed that the recommendations be made public, comment invited and individual courts further consulted. The importance of the electronic appeals project extends beyond the project itself; it will involve, in effect, the electronic integration of data movement within the whole Australian legal system, beginning at the appellate level.

The role of this Court involves special responsibilities. The Court maintains the Constitution, determines, when disputes arise, the powers of governments, protects the rights of citizens, and acts as a final court of appeal in civil and criminal cases.

As we approach the Centenary of Federation, and look back at past constitutional achievement and history, it is easy to forget that much of what we now accept as the established order represented substantial change when it

occurred, and was often unpredictable and to an extent sometimes even accidental.

On 14 September 1900 (*And Be One People*, published Melbourne University Press, 1995) Alfred Deakin wrote:

“All History takes on the appearance of inevitableness after the event. Looking backward the future will be tempted to say that Australian Union was Australia’s destiny from the first and that nothing could have prevented its consummation . . . Any one of a thousand minor incidents might have deferred it for years or generations. To those who watched its inner workings, followed its fortunes as if their own, and lived the life of devotion to it day by day, its actual accomplishment must always appear to have been secured by a series of miracles.”

Many of the decisions of this Court interpreting the Constitution were, at the time they were given, no more inevitable than the Constitution itself. If the outcome of constitutional disputes were inevitable and completely predictable, there would not be any constitutional cases. Even so, maintaining a Constitution involves maintaining a secure and stable base for the operation of our parliamentary democracy. Notwithstanding all the disputes that have required resolution, and all the proposals for change that have been and are being advanced, the nation owes a great deal to the security and stability provided by the Commonwealth Constitution as interpreted and applied by this Court for almost a century.

There have been important, and relatively recent changes, in the appellate work of the Court. Two in particular have affected the Court’s role. The first was the abolition of appeals to the Privy Council. In the beginning, and for the greater part of the time since then, the Court’s role in hearing appeals from the various Australian jurisdictions was shared with, and was, to an extent, subject to the Judicial Committee of the Privy Council in London. The abolition of appeals from the High Court, and then from all Australian courts, resulted from legislation enacted in the 1970s and 1980s, but only took final practical effect as pending cases worked their way through the system.

I appeared as counsel for the appellant in the last appeal that ever went from this Court to the Privy Council. That was in 1980. There were later Australian appeals to the Privy Council but they were from State Supreme Courts. That has come to an end, and this Court is now the final appellate court in civil and criminal cases for all Australian jurisdictions. The change can be illustrated by comparing some observations made by the first Chief Justice of the Court, and some made by the most recent Chief Justice.

On the occasion of the opening of the Court in 1903, Sir Samuel Griffith said:

“We know that some cares will come to us of necessity; in others it will be optional with the citizens to say whether they will trust us with the decision of their cases, or whether they will prefer to have recourse to the great tribunal that sits in the very centre of the Empire.”

Those words sound strange to us now. They are from a time that has gone forever.

In 1992, Sir Gerard Brennan, in the course of a judgment, said:

“Since the *Australia Act* 1986 (Cth) came into operation, the law of this country is entirely free of Imperial control. The law which governs Australia is Australian law. . . . Increasingly since 1968 the common law of Australia has been substantially in the hands of this Court. Here rests the ultimate responsibility of declaring the law of the nation.”

As has been noted many times, the confidence which is reflected in that change is justified only by a commitment to the impartial application, and principled development, of sound legal doctrine.

The second relatively recent change affecting the appellate work of the Court is that appeals can no longer be brought as of right. Until amendments to the *Judiciary Act* in 1984, civil appeals could be brought to this Court, without the need for leave, provided the cases involved a specified, relatively modest, amount of money, or involved disputes about property of a certain value. In practice, an appeal could be brought if the appellant considered that what was at stake in the case justified the legal expense. Most such appeals were capable of being decided by the application of settled precedent. For most of this century, work of that kind occupied a large part of the time of the Court. Now, special leave to appeal is required in all civil cases. Leave is granted or refused according to such considerations as whether the case involves a question of law of public importance, or whether the High Court is required to resolve differences between other courts as to the state of the law.

The result has been a substantial change in the nature of the appellate work of the Court, and of the nature of the issues that now arise for decision. This is a consideration which sometimes escapes notice in characterisation of modern decision-making. It also follows that the procedures and principles by which the Court deals with special leave applications have assumed a great deal of practical importance in the exercise of the Court’s appellate functions.

I am deeply conscious of the weight of the responsibilities I have taken up today. However, as has been said on occasions such as this in the past, a sense of inadequacy is no excuse for lack of courage or determination. I thank you all for your support.

The Court will now adjourn.

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

TABLE OF CASES REPORTED IN THIS VOLUME

Advertiser Newspapers Ltd; Chakravarti v	519
Attorney-General (Cth) v Tse Chu-Fai	128
Australia and New Zealand Banking Group Ltd; Merribee Pastoral Industries Pty Ltd v	502
Brown; Gould v	346
Chakravarti v Advertiser Newspapers Ltd	519
Christie; Qantas Airways Ltd v	280
Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd	154
General Staff, Chief of; Hembury v	641
Gould v Brown	346
Hembury v Chief of the General Staff	641
Kendle v Melsom	46
Melsom; Kendle v	46
Merribee Pastoral Industries Pty Ltd v Australia and New Zealand Banking Group Ltd	502
Murry; Federal Commissioner of Taxation v	605
Nicholas v The Queen	173
Oshlack v Richmond River Council	72
Palmer v The Queen	1
Perpetual Trustees WA Ltd; Forestview Nominees Pty Ltd v	154
Qantas Airways Ltd v Christie	280
R; Nicholas v	173
R; Palmer v	1
Richmond River Council; Oshlack v	72

Taxation, Federal Commissioner of v Murry	605
Tse Chu-Fai; Attorney-General (Cth) v	128

TABLE OF CASES JUDICIALLY CONSIDERED IN CASES REPORTED IN THIS VOLUME

<i>Bahr v Nicolay [No 1]</i> (1987) 163 CLR 490	
Considered. <i>Merribee Pastoral Industries Pty Ltd v Australia and New Zealand Banking Group Ltd</i>	502
<i>BP Australia Ltd v Amann Aviation Pty Ltd</i> (1996) 62 FCR 451	
Affirmed. <i>Gould v Brown</i>	346
<i>Box v Federal Commissioner of Taxation</i> (1952) 86 CLR 387	
Distinguished. <i>Federal Commissioner of Taxation v Murry</i>	605
<i>Bunning v Cross</i> (1978) 141 CLR 54	
Considered. <i>Nicholas v The Queen</i>	173
<i>Chakravarti v Advertiser Newspapers Ltd</i> (1996) 65 SASR 527	
Reversed. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Christie v Qantas Airways Ltd</i> (1995) 68 IR 248; 138 ALR 19	
Reversed. <i>Qantas Airways Ltd v Christie</i>	280
<i>Chu Kheng Lim v Minister for Immigration</i> (1992) 176 CLR 1	
Considered. <i>Nicholas v The Queen</i>	173
<i>Commonwealth v Melbourne Harbour Trust Commissioners</i> (1922) 31 CLR 1	
Considered. <i>Nicholas v The Queen</i>	173
<i>Commonwealth v Reeve</i> (1949) 78 CLR 410	
Considered. <i>Federal Commissioner of Taxation v Murry</i>	605
<i>DFC Financial Services Ltd v Samuel</i> [1990] 3 NZLR 156	
Discussed. <i>Kendle v Melsom</i>	46
<i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i> (1996) 70 FCR 328	
Varied. <i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i>	154
<i>Grant v Edmondson</i> [1931] 1 Ch 1 at 28	
Considered. <i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i>	154
<i>Guthrie v Armstrong</i> (1822) 5 B & Ald 628 at 629 [106 ER 1320 at 1320]	
Discussed. <i>Kendle v Melsom</i>	46
<i>Hadzel v De Waldorf</i> (1970) 16 FLR 174	
Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Hembury v Chief of the General Staff</i> (1997) 74 FCR 457	
Reversed. <i>Hembury v Chief of the General Staff</i>	641
<i>Home and Territories, Minister for v Lazarus</i> (1919) 26 CLR 159	
Considered. <i>Federal Commissioner of Taxation v Murry</i>	605
<i>James (An Insolvent), In re</i> [1977] Ch D 41 at 72	
Applied. <i>Attorney-General (Cth) v Tse Chu-Fai</i>	128
<i>Judiciary and Navigation Acts, In re</i> (1921) 29 CLR 257	
Considered. <i>Gould v Brown</i>	346
<i>Kable v Director of Public Prosecutions (NSW)</i> (1996) 189 CLR 51	
Considered. <i>Nicholas v The Queen</i>	173
<i>Keates v Lyon</i> (1869) 4 Ch App 218 at 223	
Considered. <i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i>	154

<i>Latoudis v Casey</i> (1990) 170 CLR 534 Distinguished. <i>Oshlack v Richmond River Council</i>	72
<i>Lewis v Daily Telegraph Ltd</i> [1964] AC 234 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Liyana v The Queen</i> [1967] 1 AC 259 Distinguished. <i>Nicholas v The Queen</i>	173
<i>Lucas-Box v News Group Newspapers Ltd</i> [1986] 1 WLR 147; [1986] 1 All ER 177 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Mathieson v Burton</i> (1971) 124 CLR 1 at 10 Referred to. <i>Attorney-General (Cth) v Tse Chu-Fai</i>	128
<i>Melsom v Velcrete Pty Ltd</i> (1996) 17 WAR 316 Varied.. <i>Kendle v Melsom</i>	46
<i>NEC Information Systems Australia Pty Ltd v Lockhart</i> (1991) 22 NSWLR 518 Discussed. <i>Kendle v Melsom</i>	46
<i>National Mutual Life Association of Australasia Ltd v GTV Corporation Pty Ltd</i> [1989] VR 747 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Polly Peck (Holdings) Plc v Trelford</i> [1986] QB 1000 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Polyukhovich v Commonwealth (War Crimes Act Case)</i> (1991) 172 CLR 501 Considered. <i>Nicholas v The Queen</i>	173
<i>Prichard v Krantz</i> (1984) 37 SASR 379 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>R v Davison</i> (1954) 90 CLR 353 Considered. <i>Gould v Brown</i>	346
<i>R v Duncan; Ex p Australian Iron and Steel Pty Ltd</i> (1983) 158 CLR 535 Considered. <i>Gould v Brown</i>	346
<i>R v E</i> (1996) 39 NSWLR 450 at 464 Considered. <i>Palmer v The Queen</i>	1
<i>R v F</i> (1995) 83 A Crim R 502 at 511-512 Considered. <i>Palmer v The Queen</i>	1
<i>R v G</i> [1994] 1 Qd R 540 Considered. <i>Palmer v The Queen</i>	1
<i>R v Governor of Brixton Prison; Ex p Kahan</i> [1989] QB 716 at 722-724 Referred to. <i>Attorney-General (Cth) v Tse Chu-Fai</i>	128
<i>R v Ireland</i> (1970) 126 CLR 321 Considered. <i>Nicholas v The Queen</i>	173
<i>R v Kirby; Ex p Boilermakers' Society of Australia</i> (1956) 94 CLR 254 Considered. <i>Gould v Brown</i>	346
<i>R v Rodriguez</i> (1997) 93 A Crim R 535 at 553 Disapproved. <i>Palmer v The Queen</i>	1
<i>R v Uhrig</i> (unreported; Court of Criminal Appeal (NSW); 24 October 1996), at 15-17 Considered. <i>Palmer v The Queen</i>	1
<i>Renals v Cowlshaw</i> (1878) 9 Ch D 125 Considered. <i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i>	154
<i>Richmond River Council v Oshlack</i> (1996) 39 NSWLR 622 Reversed. <i>Oshlack v Richmond River Council</i>	72
<i>Ridgeway v The Queen</i> (1995) 184 CLR 19 Explained. <i>Nicholas v The Queen</i>	173
<i>Rodway v The Queen</i> (1990) 169 CLR 515 Considered. <i>Nicholas v The Queen</i>	173

<i>Rogers v Hosegood</i> [1900] 2 Ch 388 Considered. <i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i>	154
<i>Shaw Savill and Albion Co Ltd v Commonwealth</i> (1940) 66 CLR 344 at 364 Considered. <i>Attorney-General (Cth) v Tse Chu-Fai</i>	154
<i>Slim v Daily Telegraph Ltd</i> [1968] 2 QB 157 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Sungravure Pty Ltd v Middle East Airlines Airtiban SAL</i> (1975) 134 CLR 1 Considered. <i>Chakravarti v Advertiser Newspapers Ltd</i>	519
<i>Taite v Gosling</i> (1879) 11 Ch D 273 Considered. <i>Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd</i>	154
<i>Taxation, Federal Commissioner of v Krakos Investments Pty Ltd</i> (1995) 61 FCR 489 Disapproved. <i>Federal Commissioner of Taxation v Murry</i>	605
<i>Taxation, Federal Commissioner of v Murry</i> (1996) 68 FCR 156 Reversed. <i>Federal Commissioner of Taxation v Murry</i>	605
<i>Tse Chu-Fai v Governor of Metropolitan Reception Centre</i> (1997) 150 ALR 566 Reversed. <i>Attorney-General (Cth) v Tse Chu-Fai</i>	128
<i>Water Conservation and Irrigation Commission (NSW) v Browning</i> (1947) 74 CLR 492 at 505 Applied. <i>Oshlack v Richmond River Council</i>	72
<i>Willey v Synan</i> (1935) 54 CLR 175 Considered. <i>Merribee Pastoral Industries Pty Ltd v Australia and New Zealand Banking Group Ltd</i>	502
<i>Williamson v Ah On</i> (1926) 39 CLR 95 Considered. <i>Nicholas v The Queen</i>	173

CORRIGENDA

- 174 CLR 66, headnote, line 30: For “would have exceeded” read “would not have exceeded”.
- 190 CLR 668: Under heading “REFUGEES”, for “See INTERNATIONAL LAW” read “See IMMIGRATION”.
- 191 CLR v, Table of Cases, line 12: For “Jones v The Queen 440” read “Jones v The Queen 439”.
- 191 CLR v, Table of Cases, line 22: For “R; Jones v 440” read “R; Jones v 439”.
- 192 CLR ix, CORRIGENDA: For “192 CLR 160, line 33” read “192 CLR 225, line 33”.
- 193 CLR 280, headnote, line 26: For “fist” read “first”.

STATUTES, RULES, ETC JUDICIALLY CONSIDERED

IMPERIAL

Constitution	
Ch III: <i>Nicholas v The Queen</i>	173
s 51(xxxviii), (xxxix), Ch III, ss 107, 122: <i>Gould v Brown</i>	346

COMMONWEALTH

Corporations Act 1989	
s 56(2): <i>Gould v Brown</i>	346
Corporations Law	
ss 9 “eligible applicant”, “examinable affairs”, 58AA “Court”, 596A, 596B: <i>Gould v Brown</i>	346
ss 58AA(1), 1335: <i>Merribee Pastoral Industries Pty Ltd v Australia and New Zealand Banking Group Ltd</i>	502
Crimes Act 1914	
s 15X: <i>Nicholas v The Queen</i>	173
Customs Act 1901	
s 233B: <i>Nicholas v The Queen</i>	173
Defence Force Discipline Appeals Act 1955	
s 23(1)(c): <i>Hembury v Chief of the General Staff</i>	641
Defence Force Discipline Rules	
r 33: <i>Hembury v Chief of the General Staff</i>	641
Extradition Act 1988	
ss 5, 12: <i>Attorney-General (Cth) v Tse Chu-Fai</i>	128
Extradition (Hong Kong) Regulations	
<i>Attorney-General (Cth) v Tse Chu-Fai</i>	128
High Court Rules	
O 71, rr 5, 6: <i>Merribee Pastoral Industries Pty Ltd v Australia and New Zealand Banking Group Ltd</i>	502
Income Tax Assessment Act 1936	
s 160ZZR(1)(a): <i>Federal Commissioner of Taxation v Murry</i>	605
Industrial Relations Act 1988	
ss 170DF(1)(f), (2), 170EA, 170EDA, 170EE: <i>Qantas Airways Ltd v Christie</i>	280

NEW SOUTH WALES

Corporations (New South Wales) Act 1990	
ss 7, 42(3): <i>Gould v Brown</i>	346
Environmental Planning and Assessment Act 1979	
s 123: <i>Oshlack v Richmond River Council</i>	72
Land and Environment Court Act 1979	
s 69(2): <i>Oshlack v Richmond River Council</i>	72

SOUTH AUSTRALIA

Wrongs Act 1936

s 7(1): Chakravarti v Advertiser Newspapers Ltd 519

WESTERN AUSTRALIA

Transfer of Land Act 1893

s 129A: Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd 154

TABLE OF CASES CITED IN THE JUDGMENTS

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

AFCO v Tobacco Institute (1991)	116
AG Spalding & Bros v AW Gamage Ltd (1915)	164
Abalos v Australian Postal Commission (1990)	339
Aberdare Collieries Pty Ltd v Commonwealth (1952)	428, 442
Aboriginal Affairs, Minister for v Peko-Wallsend Ltd (1986)	555
Acton Engineering Pty Ltd v Campbell (1991)	465, 517
Adelaide Steamship Co Ltd v The King and Attorney-General (Cth) (1912)	235
Ah How v United States (1904)	235
Ah Yick v Lehmert (1905)	379, 420, 423, 429, 440, 444, 448, 449
Aiden Shipping Co Ltd v Interbulk Ltd (1986)	85, 87
Ainsworth v Criminal Justice Commission (1992)	172
Airlines of NSW Pty Ltd v New South Wales (1964)	478
Alexander v Choate (1985)	334, 335
Allbutt v General Council of Medical Education and Registration (1889)	556
Allsop v Church of England Newspaper Ltd (1972)	532, 579
Alltrans Express Ltd v CVA Holdings Ltd (1984)	98
Alyeska Pipeline Co v Wilderness Society (1975)	121
Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920)	480, 485
Amoe v Director of Public Prosecutions (Nauru) (1991)	493
Anderson v Nationwide News Pty Ltd (1970)	526, 540, 587, 588
Andrews v Barnes (1888)	85
Andrews v John Fairfax & Sons Ltd (1980)	559, 600
Anglo-Cyprian Trade Agencies Ltd v Paphos Wine Industries Ltd (1951)	97, 98
Antonovic v Volker (1986)	631
Applicant A v Minister for Immigration and Ethnic Affairs (1997)	303, 330, 333
Arcade Hotel Pty Ltd, Re (1962)	163
Armstrong v Boulton (1990)	98
Arnold v Queensland (1987)	94, 110
Ashburn Anstalt v Arnold (1989)	165
Ashby v White (1703)	385
Attorney-General (Cth) v Adelaide Steamship Co Ltd (1913)	235
Attorney-General (Q); Ex rel Nye v Cathedral Church of Brisbane (1977)	89
Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd (1988)	149
Attorney-General v Hitchcock (1847)	7, 21
Attorney-General (Q) v Holland (1912)	119
Attorney-General (NSW) v Perpetual Trustee Co (Ltd) (1940)	318
Attorney-General (Cth) v The Queen (1957)	206, 207, 255, 380, 385, 401, 402, 403, 418, 427, 440, 441, 476, 481, 493, 494
Attorney-General (NSW) v Trethowan (1931)	483
Attorney-General v Vernazza (1960)	187
Attrill v Richmond River Shire Council (1995)	117, 124
Auckland Bulk Gas Users Group v Commerce Commission (1990)	124
Auckland Shop Employees Union v Woolworths (NZ) Ltd (1985)	336
Austerberry v Oldham Corporation (1885)	167
Australian Broadcasting Commission v Industrial Court (SA) (1977)	474
Australian Building Construction Employees' and Builders Labourers' Federation v Commonwealth (1986)	231, 233, 253
Australian Communist Party v Commonwealth (1951)	185
Australian Conservation Foundation v Commonwealth (1980)	78, 113
Australian Conservation Foundation v Forestry Commission (1988)	90, 123

Australian Consolidated Press Ltd v Rogers (1971)	578
Australian Consolidated Press Ltd v Uren (1966)	603
Australian Guarantee Corporation Ltd v De Jager (1984)	89
Australian Iron & Steel Ltd v Dobb (1958)	484
Australian Iron & Steel Pty Ltd v Banovic (1989)	332
Australian National Airways Pty Ltd v Commonwealth (1945)	476
Australian Slate Quarries Ltd v Federal Commissioner of Taxation (1923)	650
Australian Trade Commission v Film Funding & Management Pty Ltd (1989)	471
Australian Transport Insurance Pty Ltd v Graeme Phillips Road Transport Insurance Pty Ltd (1986)	89
Automobile Workers v Johnson Controls Inc (1991)	310, 320, 332, 333, 334, 335, 342
Avondale Motors (Parts) Pty Ltd v Federal Commissioner of Taxation (1971)	623
BIL (NZ Holdings) Ltd v ERA House Ltd (1991)	508, 512
BP Australia Ltd v Amann Aviation Pty Ltd (1996)	369, 387, 413, 433, 465, 466, 469, 472, 473, 505, 517
Bacchus Marsh Concentrated Milk Co Ltd (In liq) v Joseph Nathan & Co Ltd (1919)	615, 620
Bahr v Nicolay [No 1] (1987)	509, 510
Bahr v Nicolay [No 2] (1988)	160, 165
Balenzuela v De Gail (1959)	651, 655, 656, 663, 665, 670, 671
Bankinvest AG v Seabrook (1988)	475, 476
Bank of NSW v Commonwealth (1948)	453
Banks v Transport Regulation Board (Vict) (1968)	63
Barclay v Cox (1968)	579
Barton v Commonwealth (1974)	134
Baxter v Commissioners of Taxation (NSW) (1907)	440, 448
Bayne v Blake (1908)	459
Beazell v Ohio (1925)	237
Beecham (Australia) Pty Ltd v Roque Pty Ltd (1987)	478
Bell and Head v Nixon and Davison (1832)	69
Benner v Porter (1850)	456
Bennett v Sun Publishing Co Ltd (1972)	588
Besinnett v White (1926)	168
Billington (JH) Ltd v Billington (1907)	508, 510
Bilodeau v Attorney-General (Manitoba) (1986)	501
Bisticic v Rokov (1976)	633
Boilermakers' Case (R v Kirby; Ex p Boilermakers' Society of Australia) (1956) ..	207, 219, 220, 240, 254, 377, 378, 380, 385, 386, 389, 401, 402, 403, 418, 419, 421, 440, 445, 450, 454, 459, 469, 476, 481, 492, 499, 500
Bloch v Bloch (1980)	515
Bollinger v Costa Brava Wine Co Ltd (1960)	615
Bolton, Re; Ex p Beane (1987)	246
Bostock v Ramsey Urban District Council (1900)	97, 98, 107
Botany Municipal Council v Secretary, Department of the Arts (1992)	123
Bowling and Welby's Contract, In re (1895)	463
Box v Federal Commissioner of Taxation (1952)	611, 612, 613, 616, 620, 628, 633, 634, 635, 636
Brandy v Human Rights and Equal Opportunity Commission (1995)	207, 219, 232, 403, 404
Bray v Ford (1896)	655, 665
Bremridge v Latimer (1864)	528
British Coal Corporation v The King (1935)	376, 484
British Medical Association v Commonwealth (1949)	207, 230, 401
Broome v Cassell & Co (1972)	601
Bropho v Western Australia (1990)	332
Browne v Commissioner for Railways (1935)	385
Brundza v Robbie & Co [No 2] (1952)	515
Brunner v Greenslade (1971)	164

Bugg v Day (1949)	21
Bunker v James (1980)	603
Bunning v Cross (1978)	194, 196, 201, 216, 218, 242, 252, 253, 258, 270, 272, 274
Burford, Corporation of v Lenthall (1743)	86
Burke v Yurilla SA Pty Ltd (1991)	163
Burns Philp & Co Ltd v Bhagat (1993)	108
Burwell v Eastern Air Lines Inc (1981)	309
Byrne v Australian Airlines Ltd (1995)	337
CIC Insurance Ltd v Bankstown Football Club Ltd (1997)	246
C & S Air Lines v Waterman Corp (1948)	255
Cachia v Hanes (1994)	97
Cameron v Cole (1944)	463, 506
Campbell v Minister for Environment and Planning (1988)	115
Capital Duplicators Pty Ltd v Australian Capital Territory (1992)	437, 486
Capital TV and Appliances Pty Ltd v Falconer (1971)	206, 379, 380, 401, 402, 426, 429, 441, 460, 493, 495
Carson v John Fairfax & Sons Ltd (1991)	425, 446, 455
Carson v John Fairfax & Sons Ltd (1993)	565, 603
Carter v Egg and Egg Pulp Marketing Board (Vict) (1942)	462
Chakravarti v Advertiser Newspapers Ltd (1995)	536, 540, 546, 554, 555, 558, 559, 560, 562, 563, 565, 566, 569, 577, 581, 582, 585, 589, 590, 591, 595, 596, 598, 601, 603
Chakravarti v Advertiser Newspapers Ltd (1996)	536, 541, 542, 551, 554, 557, 558, 559, 560, 561, 564, 565, 567, 573, 581, 582, 583, 589, 591, 595, 598, 599, 601, 602
Chalmers v Payne (1835)	574
Chamberlain v The Queen [No 2] (1984)	25
Chaplin v Commissioner of Taxes (SA) (1911)	462, 498
Chapman v Ellesmere (Lord) (1932)	59
Charleston v News Group Newspapers Ltd (1995)	574
Chau v Director of Public Prosecutions (1995)	225, 253
Cheatle v The Queen (1993)	185
Chellaram (PS) & Co v China Shipping Co (1991)	515
Cheney v Spooner (1929)	500
Christie v Qantas Airways Ltd (1995)	285, 287, 292, 293, 300, 306, 307, 309, 311, 314, 319, 321, 322, 323, 324, 326, 327, 334, 335, 339, 342
Christie v Qantas Airways Ltd (1996)	285, 287, 293, 294, 300, 301, 304, 307, 311, 315, 317, 319, 321, 327, 328, 333, 337, 339, 343
Chu Kheng Lim v Minister for Immigration (1992)	185, 186, 187, 188, 201, 208, 220, 221, 232, 233, 257, 261, 263, 278, 379, 481
Churton v Douglas (1859)	612, 625, 637
Cilli v Abbott (1981)	122
Claflin v Houseman, Assignee (1876)	455
Clark King & Co Pty Ltd v Australian Wheat Board (1978)	478
Cleland v The Queen (1982)	195, 216, 242, 258, 270
Cobb & Co Ltd v Kropp (1967)	486
Cocke v Jennor (1614)	50
Cockle v Isaksen (1957)	449, 452
Codelfa Construction Pty Ltd v State Rail Authority of NSW (1982)	68, 317
Collins v Charles Marshall Pty Ltd (1955)	379, 422, 430, 446, 447, 452, 453, 455
Collins v Youngblood (1990)	237
Colquhoun v Brooks (1888)	481
Cominos v Cominos (1972)	500
Commodity Futures Trading Commission v Schor (1986)	201
Commonwealth v Cigamatic Pty Ltd (In liq) (1962)	423, 498
Commonwealth v Human Rights and Equal Opportunity Commission (1996)	308, 310
Commonwealth v Kreglinger & Fernau Ltd and Bardsley (1926)	480, 492
Commonwealth v Limerick Steamship Co Ltd and Kidman (1924)	448
Commonwealth v Melbourne Harbour Trust Commissioners (1922)	189, 235, 236

Commonwealth v Queensland (1975) ..	376, 421, 424, 432, 440, 446, 450, 453, 480, 484
Commonwealth v Reeve (1949)	622
Commonwealth v Tasmania (the Tasmanian Dam Case) (1983)	332, 333
Commonwealth Scientific and Industrial Research Organisation v Perry [No 2] (1988)	250
Community Services, Director-General Department of v Bowie (1990)	333, 342
Conagra Inc v McCain Foods (Aust) Pty Ltd (1992)	634
Condit v United Air Lines Inc (1977)	309
Connelly v Director of Public Prosecutions (1964)	265
Consumers Distributing Co Ltd v Seiko Time Canada Ltd (1984)	634
Control Risks Ltd v New Library Ltd (1990)	527, 543
Cook v Alexander (1974)	540
Cooke v Chilcott (1876)	165
Cooney v Ku-ring-gai Corporation (1963)	90, 91
Cooper v Metropolitan Board of Works (1883)	618, 620, 621
Cooper v Stuart (1889)	492
Coróneo v Australian Provincial Assurance Association Ltd (1935)	168
Cotterell v Stratton (1872)	88
Coulls v Bagot's Executor & Trustee Co Ltd (1967)	88
Couper v The Queen (1985)	664, 665
Cowell v Rosehill Racecourse Co Ltd (1937)	63
Cox v Bishop (1857)	165
Coyne v Citizen Finance Ltd (1991)	603
Crampton v Nugawela (1996)	534, 567, 602
Cram, Re; Ex p Newcastle Wallsend Coal Co Pty Ltd (1987)	219
Cram, Re; Ex p NSW Colliery Proprietors' Association Ltd (1987)	430, 431, 443, 478, 487
Crofts v The Queen (1996)	40
Croome v Tasmania (1997)	431, 432, 440, 450
Cruttwell v Lye (1810)	612, 631
DDSA Pharmaceuticals Ltd v Times Newspapers Ltd (1973)	579
DFC Financial Services Ltd v Samuel (1990)	53, 55, 65, 68
DMW v CGW (1982)	420, 441
Dale v Inland Revenue Commissioners (1954)	61
Dalgety Wine Estates Pty Ltd v Rizzon (1979)	164
Daniell v Federal Commissioner of Taxation (1928)	621
Danzig and the International Labour Organisation, Case Concerning the Free City of (1929)	145
Darlinghurst Residents' Association v Elarosa Investments Pty Ltd [No 3] (1992)	94, 110, 115
Davern v Messel (1984)	451
David Syme & Co Ltd v Grey (1992)	435, 447
Davis v Commonwealth (1988)	461
Degmam Pty Ltd (In liq) v Wright [No 2] (1983)	89
De L v Director-General, NSW Department of Community Services (1996)	555
Delehunt v Carmody (1986)	162
Dennis v Watt (1942)	650
Devenish v Jewel Food Stores Pty Ltd (1990)	514, 515
Devonald v Rosser & Sons (1906)	302
Dillon v Baltic Shipping Co (1991)	514
Dingjan, Re; Ex p Wagner (1995)	392, 491
Dingle v Associated Newspapers Ltd (1964)	557, 587, 602, 603
Doherty v Allman (1878)	164
Dominion Dairies Ltd v Minister of National Revenue (1966)	634
Donald Campbell & Co v Pollak (1927)	97, 112, 120, 121, 124
Dothard v Rawlinson (1977)	309, 333
Driscoll v The Queen (1977)	663
Drummoyne Municipal Council v Australian Broadcasting Corporation (1990)	578
Duncan v Ridd (1976)	634

Earl of Leicester v Wells-Next-The-Sea Urban District Council (1973)	169
Edwards v Clinch (1982)	61
Edwards v The Queen (1993)	31
Elgindata Ltd [No 2], In re (1992)	96
Ellis v Grant (1970)	578
Elliston v Reacher (1908)	164
Emanuele v Australian Securities Commission (1997)	81
Expo International Pty Ltd v Chant (1979)	51, 53
Eyre v Countess of Shaftsbury (1722)	61
FAI General Insurance Co Ltd v Southern Cross Exploration NL (1988)	81
F Hannan Pty Ltd v Electricity Commission of NSW [No 3] (1985)	79
F, Re; Ex p F (1986)	501
Farbenfabriken Bayer Aktiengesellschaft v Bayer Pharma Pty Ltd (1959)	653
Farmer v Cotton's Trustees (1915)	650
Farquhar v Bottom (1980)	573, 574, 575, 588
Farrer v Lacy, Hartland & Co (1885)	515
Federal Capital Commission v Laristan Building and Investment Co Pty Ltd (1929)	380
Federated Homes Ltd v Mill Lodge Properties Ltd (1980)	171
Felton v Mulligan (1971)	381, 448, 455
Fencott v Muller (1983)	187, 219, 380, 386, 412, 448, 474
Ffrost v Stevenson (1937)	149
Fire Commissioners, Board of (NSW) v Ardouin (1961)	429
Fitzgerald v Masters (1956)	68
Flaherty v Girgis (1987)	447
Forbes v Samuel (1913)	98
Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd (1995)	158, 161, 170
Forestview Nominees Pty Ltd v Perpetual Trustees WA Ltd (1996)	158, 160
Foster v The Queen (1993)	209, 242, 258, 270
Foster, In re v Great Western Railway Co (1882)	85
Fothergill v Monarch Airlines Ltd (1981)	332
Fuller v Bellingen Shire Council (1988)	115
Garrett v Licensing Justices of Division of St Marylebone, Middlesex (1884)	617
General Steel Industries Inc v Commissioner for Railways (NSW) (1964)	511
Geraghty v Minter (1979)	615, 618, 620
Gerhardy v Brown (1985)	303, 330
Giris Pty Ltd v Federal Commissioner of Taxation (1969)	486
Glennon v The Queen (1994)	664
Goldsbrough, Mort & Co Ltd v Quinn (1910)	166
Gould v Brown (1998)	206, 207, 504, 506, 515, 516, 517
Gould and Birbeck and Bacon v Mount Oxide Mines Ltd (In liq) (1916)	580
Grace Bros Pty Ltd v Magistrates, Local Courts of NSW (1988)	471
Grannall v Marrickville Margarine Pty Ltd (1955)	490
Grant v Edmondson (1931)	167
Grassby v The Queen (1989)	189
Gray v Lord Ashburton (1917)	87
Grierson v The King (1938)	451
Gumina v Williams [No 2] (1990)	527, 543, 544, 580
Gurnett v Macquarie Stevedoring Co Pty Ltd [No 2] (1956)	384, 446
Guthrie v Armstrong (1822)	51, 64, 69
HKSAR v Ma Wai-Kwan (1997)	145
Haberle Crystal Springs Brewing Co v Clarke (1929)	614
Hadzel v De Waldorf (1970)	533, 544, 580
Hall v Barrows (1863)	615
Hall v Marchant (1914)	7
Hall v Snowdon, Hubbard & Co (1899)	514

Hamilton v Oades (1989)	387, 499
Hampton v United States (1976)	275
Hannah v Dalgarno (1903)	422, 446
Hannan v Electricity Commission of New South Wales [No 3] (1985)	114
Hansen v Nugget Publishers Ltd (1927)	593
Harris v Caladine (1991)	201, 207, 208, 255, 401, 404, 419, 429, 440
Harris v Tippett (1811)	7, 21
Harrison v Gardner (1817)	617
Harrison v Pearce (1859)	600
Harriss v Pan American World Airways Inc (1980)	309
Hayburn's Case (1792)	255
Hayes v Federal Commissioner of Taxation (1956)	650
He Kaw Teh v The Queen (1985)	235
Hembury v Chief of the General Staff (1997)	653, 661, 662, 663, 668, 670
Hembury v Commonwealth (1994)	646, 661
Hepples v Federal Commissioner of Taxation (1992)	611, 614, 618, 620, 624, 631, 632, 633
Hill v Fearis (1905)	610
Hivis, Ex p; Re Michaelis (1933)	119, 124
Hobbs v Marlowe (1978)	98
Holford v Melbourne Tramway and Omnibus Co Ltd (1909)	651, 656, 670
Holford v Metropolitan Tramway and Omnibus Co Ltd (1909)	648, 655
Holmes v Hunt (1877)	235
Home and Territories, Minister for v Lazarus (1919)	622
Honey, Ex p; In re Jeffery (1871)	55
Hooper v Hooper (1955)	487
Hope v Bathurst City Council (1980)	650
Hope v Sir W C Leng & Co (1907)	588
House v The King (1936)	81
Houssein v Under Secretary of Industrial Relations and Technology (NSW) (1982)	342, 481
Houston v Moore (1820)	455
Howden v "Truth" and "Sportsman" Ltd (1937)	529
Huddart, Parker & Co Pty Ltd v Moorehead (1909)	187, 219, 256, 273, 386, 388, 404
Hugh J Roberts Pty Ltd, Re (1970)	499
Hull v M'Kenna (1926)	376
Hunter v Chief Constable (1982)	265
Hunter v Freeman (1994)	38
Hyman v Rose (1912)	81
IW v City of Perth (1997)	319, 332, 334
Ibralebbe v The Queen (1964)	376, 425, 446, 484
Immigration and Ethnic Affairs, Minister for v Teoh (1995)	555, 576
Immigration and Ethnic Affairs, Minister for, Re; Ex p Qin (1997)	102
Immigration & Multicultural Affairs, Minister for, Re; Ex p Abebe [No 1] (1998)	508
Income-tax, Commissioner of v B C Srinivasa Setty (1981)	635
Incorporation Case (New South Wales v Commonwealth) (1990)	393, 413, 434, 472
Industrial Relations Act Case (Victoria v Commonwealth) (1996)	141, 287, 297, 301, 312, 313, 332, 338, 339, 407, 458, 461
Initiative and Referendum Act, In re (1919)	486
Inland Revenue Commissioners v Ayrshire Employers Mutual Insurance Association Ltd (1946)	334
Inland Revenue Commissioners v Muller & Co's Margarine Ltd (1901)	613, 631, 633, 635
International Factors Ltd v Rodriguez (1979)	62
International Union UAW v Johnson Controls Inc (1989)	335
Iron Gates Developments Pty Ltd v Richmond-Evans Environmental Society Inc (1992)	76, 111

J H Billington Ltd v Billington (1907)	508, 510
Jack v Smail (1905)	634
Jacobellis v Ohio (1964)	99
Jacobson v United States (1992)	275
Jago v District Court (NSW) (1989)	555
Jamal v Secretary, Department of Health (1988)	334, 335
James, In re (1977)	149
Jarman, Re; Ex p Cook [No 2] (1996)	112
Jenkins v Hope (1896)	98
John Fairfax & Sons v Kelly (1987)	603
John Sharp & Sons Ltd v The Katherine Mackall (1924)	375, 493
Jones v Coxeter (1742)	86
Jones v McKie (1964)	98, 107
Jones v Pugh (1692)	61, 69
Jones v Skelton (1963)	573
Jones v Sterling (1982)	235
Jones v The Queen (1997)	32, 33
Jubb v Dock Co at Kingston upon Hull (1846)	621
Judiciary and Navigation Acts, In re (1921)	206, 207, 378, 401, 419, 420, 421, 429, 430, 432, 440, 450, 481, 492
KBT v The Queen (1997)	664
Kable v Director of Public Prosecutions (NSW) (1996) ...	203, 207, 220, 233, 250, 254, 256, 257, 401, 424, 425, 446, 448, 462, 478, 479, 496, 497
Katz v United States (1967)	258
Keates v Lyon (1869)	168
Kelly v Special Broadcasting Service (1990)	544
Kendle v Melsom (1998)	315
Kent v Cavanagh (1973)	94, 107, 110, 115
Kerr v Pelly (1957)	446
Kerr v Verran (1989)	90
Kerry Lowe Management Pty Ltd v Isherwood & Sherlock (1989)	53, 65, 68
Khan v Ahmed (1957)	593
Kimber v Press Association (1893)	556
King v Commercial Bank of Australia Ltd (1920)	513, 514
King & Co v Gillard & Co (1905)	97
Kingscote, District Council of v Kangaroo Island Eco Action Inc [No 2] (1996)	82
Kingston v Keprose Pty Ltd (1987)	332, 334
Kirmani v Captain Cook Cruises Pty Ltd [No 1] (1985)	373
Knight v Clifton (1971)	88
Knight v F P Special Assets Ltd (1992)	81, 82, 85, 87, 108, 113
“Koursk” (The) (1924)	50
Kruger v Commonwealth (1997)	402, 403
LNC Industries Ltd v BMW (Australia) Ltd (1983)	448
Labour Relations Board of Saskatchewan v John East Iron Works Ltd (1949)	386, 404
Lamshed v Lake (1958)	476
Landgraf v USI Film Products (1994)	237
Lange v Australian Broadcasting Corporation (1997)	572, 592
Latoudis v Casey (1990)	75, 82, 83, 85, 86, 93, 96, 97, 101, 102, 103, 110, 112, 118, 119, 120, 121, 122, 124, 152
Laurie v Carroll (1958)	447
Leask v Commonwealth (1996)	235, 491
Leech v Schweder (1874)	165
Leeth v Commonwealth (1992)	192, 206, 207, 208, 253, 254, 255, 257, 401, 481, 497, 500
Le Mesurier v Connor (1929)	452, 497
Leslie v Mirror Newspapers Ltd (1971)	540, 587, 588
Lewis v Daily Telegraph Ltd (1963)	574

Lewis v Daily Telegraph Ltd (1964)	531, 543, 573, 574, 578, 579
Life Insurance Co of Australia Ltd v Phillips (1925)	68
Li Sing v United States (1901)	235
Liverpool Household Stores Association Ltd, In re (1890)	53, 55
Liversidge v Anderson (1942)	89
Liyanage v The Queen (1967)	188, 192, 203, 211, 212, 221, 233, 250, 255, 256, 257, 261, 262, 262, 278
Lockwood v Commonwealth (1954)	586
London & South Western Railway Co v Gomm (1882)	162
London County Council v Allen (1914)	163
Long v Gray (1913)	168
Lord Bishop of Natal, In re (1864)	375
Lord Northbourne v Johnston & Son (1922)	169
Lucas v Yorke (1983)	513, 514
Lucas-Box v News Group Newspapers Ltd (1986)	543, 544
Luker v Dennis (1877)	165
Lumley v Wagner (1852)	165
M v The Queen (1994)	30, 31, 32, 33, 39
Maatschappij voor Fondsenbezit v Shell Transport and Trading Co (1923)	518
Mabo v Queensland [No 2] (1992)	575
McCawley v The King (1918)	483
McCawley v The King (1920)	375
McDermott v The King (1948)	86
McGlew v NSW Malting Co Ltd (1918)	447
McIlwraith McEachern Ltd v Shell Co of Australia Ltd (1945)	375
McKendrick Glass Co v Wilkinson (1965)	51
Macleod v Attorney-General (NSW) (1891)	376
MacMillan Bloedel Ltd v Simpson (1995)	259, 276
M'Wade v Goodlake, The Times (1881)	588
Magna Alloys & Research Pty Ltd v Federal Commissioner of Taxation (1980) ...	616
Magnifax Publishers Pty Ltd v Incentive Pty Ltd (1970)	544
Mahar v Rogers Cablesystems Ltd (1995)	84, 124
Makin v Attorney-General (NSW) (1894)	664
Manchester & Milford Railway Co, In re; Ex p Cambrian Railway Co (1880)	67
Manchester Ship Canal Co v Manchester Racecourse Co (1901)	165
Marbury v Madison (1803)	419, 425, 451
March v Stramare (E & MH) Pty Ltd (1991)	600
Marquess of Zetland v Driver (1939)	161
Marten v Flight Refuelling Ltd (1962)	169, 170
Martin v Hunter's Lessee (1816)	455
Mathieson v Burton (1971)	139
Maxwell v Director of Public Prosecutions (1935)	232
Maxwell v The Queen (1996)	256, 265
Medlin v State Government Insurance Office (1995)	559
Melbourne Corporation v Commonwealth (1947)	498
Melhuish v Collier (1850)	24
Mellifont v Attorney-General (Q) (1991)	419, 440
Melsom v Velcrete Pty Ltd (1996)	58
Mercantile Credits Ltd v Shell Co of Australia Ltd (1976)	163
Metlakatla Indians v Egan (1960)	456, 495
Metropolitan Bank v St Louis Dispatch Co (1893)	634
Milicevic v Campbell (1975)	190, 203, 225, 235, 236, 260
Millar, Re; Burns v E S & A Bank Ltd (1952)	618, 620
Mills' Estate, In re (1886)	95
Milne v Attorney-General (Tas) (1956)	77, 86, 151
Mirror Newspapers Ltd v Harrison (1982)	571, 573, 576
Mirror Newspapers Ltd v World Hosts Pty Ltd (1979)	574, 575
Mitchell v The Queen (1996)	239, 458
Moevao v Department of Labour (1980)	256, 265

Mohazab v Dick Smith Electronics Pty Ltd [No 2] (1995)	301, 336
Moorgate Tobacco Co Ltd v Philip Morris Ltd (1980)	412
Morgan v Odhams Press Ltd (1971)	575
Morrell v International Thomson Publishing Ltd (1989)	527, 543
Morris v Moss (1855)	631
Morris v Newcastle Newspapers Pty Ltd (1985)	578
Mortimer v Brown (1970)	387
Motor Terms Co Pty Ltd v Liberty Insurance Ltd (1967)	162
Mraz v The Queen (1955)	649, 656, 664
Muller & Co's Margarine Ltd (1901) ...	613, 615, 616, 618, 619, 620, 621, 627, 629, 633
Murphyores Inc Pty Ltd v Commonwealth (1976)	555
Murry v Federal Commissioner of Taxation (1995)	610, 626, 637
NEC Information Systems Australia Pty Ltd v Lockhart (1991)	53, 54, 55, 65, 68
NSW Associated Blue-Metal Quarries Ltd v Federal Commissioner of Taxation (1956)	650
National Australia Bank Ltd v Federal Commissioner of Taxation (1997)	309, 616
National Mutual Life Association of Australasia v GTV Corporation Pty Ltd (1989)	544, 545, 579, 580
National Parks and Wildlife Service v Stables Perisher (1990)	475
Nationals of the United States of America in Morocco, Case Concerning Rights of (France v United States of America) (1952)	145
National Westminster Bank Plc v Morgan (1985)	631
Nationwide News Pty Ltd v Wills (1992)	392
Natta v Canham (1991)	21, 22, 23
Nelungaloo Pty Ltd v Commonwealth (1948)	187, 259
Nettheim v The Minister [No 2] (1988)	115
Newcrest Mining (WA) Ltd v Commonwealth (1997)	494
New South Wales v Commonwealth (1915)	440
New South Wales v Commonwealth [No 1] (1932)	443
New South Wales v Commonwealth (Seas and Submerged Lands Case) (1975) ...	488
New South Wales v Commonwealth (the Incorporation Case) (1990) ...	393, 413, 434, 472
New South Wales v Commonwealth (the Wheat Case) (1915)	419
Newton Abbot Co-operative Society Ltd v Williamson & Treadgold Ltd (1952) ...	169
Nicholas v The Queen (1998)	494
Nisbet and Potts' Contract, In re (1905)	162, 163, 165
Nisbet and Potts' Contract, In re (1906)	166
Nolan, Re; Ex p Young (1991)	208, 392, 404, 648, 654, 657
Norbis v Norbis (1986)	82, 86
Norman v Federal Commissioner of Taxation (1963)	89
Northern Pipeline Co v Marathon Pipe Line Co (1982)	494, 498, 501
Northern Sandblasting Pty Ltd v Harris (1997)	124
North Ganalanja Aboriginal Corporation v Queensland (1996)	419, 440, 494
Nowlan v Moncton Publishing Co (1952)	587
O'Callahan v Parker (1969)	657
Ohn v Walton (1995)	104
Olmstead v United States (1927)	258
Onus v Alcoa of Australia Ltd (1981)	79, 113
Orient Steam Navigation Co Ltd v Gleeson (1931)	225, 235
Osborne v Bradley (1903)	164
Oshlack v Richmond River Council (1998)	151
Oshlack v Richmond River Shire Council (1993)	77, 78, 92, 111
Oshlack v Richmond River Shire Council (1994)	75, 80, 81, 91, 92, 99, 108, 110, 114, 115, 116, 117, 123
O'Sullivan v Farrer (1989)	555

PMT Partners Pty Ltd (In liq) v Australian National Parks and Wildlife Service (1995)	81
P S Chellaram & Co v China Ocean Shipping Co (1991)	515
Packer v Meagher (1984)	89
Packer v Mirror Newspapers Ltd (1969)	530, 579
Padstow Total Loss and Collision Assurance Association, In re (1882)	463
Palmer v Director of Public Prosecutions (1996)	31, 32, 34, 40
Pareroultja v Tickner (1993)	117
Parker v John Fairfax & Sons Ltd (1980)	574
Parmiter v Coupland (1840)	573
Pastoral Finance Association Ltd v The Minister (1914)	622
Pay-Roll Tax, Commissioner of (NSW) v Group Four Industries Pty Ltd (1984) ..	463
Pearson v Dennett (1911)	88
Peel v The Queen (1971)	657
Penrith Rugby League Club Ltd v Commissioner of Land Tax (1983)	632
Perera (MG) v Peiris (1949)	586
Peterswald v Bartley (1904)	424, 446
Petritsis v Hellenic Herald Pty Ltd (1978)	578
Pfennig v The Queen (1995)	109
Phelps v Western Mining (1978)	114
Philip Morris Inc v Adam P Brown Male Fashions Pty Ltd (1981)	379, 380, 412, 420, 441, 455, 459, 474, 490, 491
Phillips v Commissioner of Taxation (1947)	636
Phillips v Federal Commissioner of Taxation (1947)	620, 633
Piddington v Bennett and Wood Pty Ltd (1940)	7, 21, 23, 24
Pidoto v Victoria (1943)	392, 407
Pirie v Registrar-General (1962)	160, 162, 163
Pirrie v McFarlane (1925)	448
Pizza Pizza Ltd v Toronto Star Newspapers Ltd (1996)	544, 580
Plato Films Ltd v Speidel (1961)	557
Plaut v Spendthrift Farm Inc (1995)	201, 231, 254, 255, 257, 261, 264
Plessey Australia Pty Ltd v Federal Commissioner of Taxation (1989)	632
Plomp v The Queen (1963)	25
Pollard v The Queen (1992)	195, 196, 216, 242, 253, 258, 270, 272
Polly Peck Plc v Trelford (1986)	526, 527, 529, 543, 579
Polyukhovich v Commonwealth (War Crimes Act Case) (1991)	186, 202, 203, 207, 208, 221, 231, 234, 256, 257, 259, 261, 273, 274, 277, 278, 379, 401, 495
Porter v The King; Ex p Yee (1926)	380, 402, 426, 427, 441, 493
Port MacDonnell Professional Fishermen's Assn Inc v South Australia (1989)	435, 488, 489, 492
Potter v Commissioners of Inland Revenue (1854)	615
Potter v Ferguson (1979)	166
Powdrill v Watson (1995)	64
Prager v Times Newspapers Ltd (1988)	527, 543
Precision Data Holdings Ltd v Wills (1991)	207, 388, 403, 404
Price Waterhouse v Hopkins (1989)	310
Prichard v Krantz (1984)	533, 544, 580
Prineas v Forestry Commission of NSW (1983)	115
Protea Holdings Ltd v Herzberg (1982)	634
Public Prosecutions, Director of (Nauru) v Fowler (1984)	493
Public Prosecutions, Director of v Polyukhovich [No 2] (1993)	250, 270
Public Prosecutions, Director of v Shannon (1975)	654, 673
Punnett, Ex p; In re Kitchin (1880)	618, 620
Qantas Airways Ltd v Cameron [No 3] (1996)	117
Qantas Airways Ltd v Gubbins (1992)	322
Quadramain Pty Ltd v Sevastapol Investments Pty Ltd (1976)	162, 165, 169
Quartermaine v The Queen (1980)	664
Queensland Co-operative Milling Association Ltd, Re (1976)	670
Queensland v J L Holdings Pty Ltd (1997)	125

Queen Victoria Memorial Hospital v Thornton (1953)	207, 230, 388, 389, 401, 404, 420, 430, 448, 459, 500
Quin v Mercury Bay Timber Co (1885)	250
R v AF (1996)	37, 42
R v AJR (1994)	37
R v Archbishop of Canterbury (1902)	124
R v Australian Broadcasting Tribunal; Ex p 2HD Pty Ltd (1979)	555
R v Australian Broadcasting Tribunal; Ex p Hardiman (1980)	78, 90, 108
R v Bernasconi (1915)	402, 426, 427, 441, 493
R v Bevan; Ex p Elias and Gordon (1942)	657
R v Burke (1858)	23
R v Cargill (1913)	7
R v Collins (1987)	275
R v Costin (1997)	31, 38
R v Cox; Ex p Smith (1945)	657
R v Coyle (1851)	7
R v Cramer (1997)	305
R v Credit Tribunal; Ex p General Motors Acceptance Corporation (1977)	383, 462
R v D'Arrigo (1994)	252
R v Davies (1994)	38
R v Davison (1954)	186, 207, 219, 231, 256, 278, 386, 388, 389, 403, 404, 405, 500
R v Duncan; Ex p Australian Iron and Steel Pty Ltd (1983)	374, 381, 428, 430, 442, 462, 470, 478, 480, 484, 485, 487, 490, 491, 497
R v E (1996)	8, 9, 27, 37, 38, 41, 42
R v F (1995)	7, 26, 27, 37, 38
R v Federal Court of Bankruptcy; Ex p Lowenstein (1938)	207, 401, 405, 444, 500
R v Feltrin (1991)	37
R v Funderburk (1990)	23
R v G (1991)	37
R v G (1994)	8, 37, 38, 42
R v Governor of Brixton Prison; Ex p Kahan (1989)	148
R v Governor of Brixton Prison; Ex p Schtraks (1964)	147
R v Governor of South Australia (1907)	450
R v Hall (1971)	662, 665
R v Hegarty; Ex p City of Salisbury (1981)	403, 500
R v Henderson (1966)	665
R v Hildebrandt (1963)	664, 665
R v Hoare (1844)	55
R v HPP (1996)	37, 38, 39
R v Humby; Ex p Rooney (1973)	187, 231, 233, 256, 259
R v Ireland (1970)	194, 216, 242, 274
R v Khan (1996)	274
R v Kirby; Ex p Boilermakers' Society of Australia (the Boilermakers' Case) (1956)	207, 219, 220, 240, 254, 377, 378, 380, 385, 386, 389, 401, 402, 403, 418, 419, 421, 440, 445, 450, 454, 459, 469, 476, 481, 492, 499, 500
R v Leak (1969)	25, 37, 39
R v Leighton (1994)	37, 41
R v Livingstone (1987)	7
R v Mack (1984)	265
R v Mills (1998)	673
R v Murphy (1985)	207, 230, 401, 459
R v Murray and Cormie; Ex p Commonwealth (1916)	431, 450
R v Phillips (1936)	21
R v Poirier (1992)	37
R v Preston (1992)	673
R v Quinn; Ex p Consolidated Food Corporation (1977)	231, 239, 254
R v Riaz and Burke (1991)	651
R v Riaz and Burke (1992)	655

R v Richards; Ex p Fitzpatrick and Browne (1955)	206
R v Richardson (1969)	21
R v Robinson (1996)	25
R v Rodriguez (1997)	9, 27, 28, 37, 38
R v Rose (1982)	673
R v Sang (1980)	274
R v Shaw (1888)	7
R v Spicer; Ex p Australian Builders' Labourers' Federation (1957)	403, 404
R v Stillman (1997)	275
R v Swaffield (1998)	201, 202
R v Trade Practices Tribunal; Ex p Tasmanian Breweries Pty Ltd (1970)	207, 233, 256, 263, 273, 389, 403, 404
R v Turner (1975)	22
R v Uhrig (1996)	7, 9, 27, 38, 39, 42
R v Vandenberghe (1995)	37, 42
R v Wake (1857)	51
R v Wallace (1931)	25
R v Watson (1817)	21
R v Watson; Ex p Armstrong (1976)	188
R v Wijesinha (1995)	275
R v Wilkinson; Ex p Brazell, Garlick and Coy (1952)	446
R v Williams (1956)	660
R v Wright (1799)	556, 585
R and Attorney-General (Cth) v Associated Northern Collieries (1911)	235, 237
R J Wood Pty Ltd v Sherlock (1988)	53, 68
Railway Company v Whitton (1872)	456
Railways, Commissioner for (NSW) v Cavanough (1935)	510
Ranger Uranium Mines Pty Ltd, Re; Ex p Federated Miscellaneous Workers' Union of Australia (1987)	403, 404
Ratcliffe v Evans (1892)	559, 601
Ratepayers and Residents Action Association Inc v Auckland City Council (1986)	124
Reader's Digest Services Pty Ltd v Lamb (1982)	573, 576
Rees v Kratzmann (1965)	388, 500
Reese v Alberta (1993)	124
Reference re Language Rights under Manitoba Act 1870 (1985)	501
Regent Oil Co Ltd v J A Gregory (Hatch End) Ltd (1966)	167
Renals v Cowlshaw (1878)	169
Residential Tenancies Tribunal (NSW), Re; Ex p Defence Housing Authority (1997)	423, 466, 474, 498
Rhinos v Hardwick (1994)	575
Rhone v Stephens (1994)	163, 165, 167, 171
Richmond-Evans Environmental Society Inc v Iron Gates Developments Pty Ltd (1991)	111
Richmond River Council v Oshlack (1996)	75, 79, 82, 84, 93, 110, 111, 117, 123
Ridgeway v The Queen (1995)	180, 183, 184, 193, 196, 198, 201, 204, 209, 210, 213, 216, 217, 218, 222, 224, 226, 229, 238, 240, 243, 249, 250, 252, 253, 258, 259, 265, 266, 267, 271, 272, 273, 275
Riley v Commonwealth (1985)	135, 151
Ritter v Godfrey (1920)	121, 122
Roberts (Hugh J) Pty Ltd, Re (1970)	499
Robertson v Quiddington (1860)	615
Robins v National Trust Co (1927)	648, 655
Robinson v The Queen (1991)	28, 43
Rodgers v Hosegood (1900)	166, 167, 168, 170
Rodway v The Queen (1990)	190, 198, 202, 234, 253, 260, 278
Rogers v The Queen (1994)	270
Rola Co (Australia) Pty Ltd v Commonwealth (1944)	219
Rosehill Racecourse Co v Commissioner of Stamp Duties (NSW) (1905)	620, 621, 634, 635

Royal Brunei Airlines Sdn Bhd v Tan Kok Ming (1995)	165
Ruckelshaus v Sierra Club (1983)	121
Rundle v Tweed Shire Council [No 2] (1989)	115
Rutherford, Re (1977)	166
Ryan v Ross (1916)	544
SC Cambatta & Co Pvt Ltd v Commissioner of Excess Profits Tax (1961)	634, 635
S & K Holdings Ltd v Throgmorton Publications Ltd (1972)	579
Schutz v State (1905)	37
Seas and Submerged Lands Case (New South Wales v Commonwealth) (1975) ...	488
Second Employers' Liability Cases (1912)	455
Shaw Savill & Albion Co Ltd v Commonwealth (1940)	149
Sheahan v Carrier Air Conditioning Pty Ltd (1997)	61, 64, 70
Sherman v United States (1958)	258, 266
"Shin Kobe Maru" (Owners of) v Empire Shipping Co Inc (1994)	81
Shop Distributive and Allied Employees Association v Minister for Industrial Affairs (SA) (1995)	79, 113
Sierra Club of Western Canada v Attorney-General (British Columbia) (1991) ...	125
Sim v Stretch (1936)	573
Simmons v Mitchell (1880)	544
Singer v Berghouse (1993)	515
Singleton v French (1986)	578, 583
Slatyer v Daily Telegraph Newspaper Co (1907)	573
Slatyer v Daily Telegraph Newspaper Co Ltd (1908)	573
Slim v Daily Telegraph Ltd (1968)	532, 543, 544, 580
Smale v Graves (1850)	615, 631
Smeaton Hanscomb & Co Ltd v Sassoon I Setty, Son & Co [No 2] (1953)	96
Smerdon, Re (1979)	660
Smith v Anderson (1880)	626
Smith v Everett (1859)	615
Smith v The Queen (1993)	7
Smith & Snipes Hall Farm Ltd v River Douglas Catchment Board (1949)	170
Smith Kline & French Laboratories (Aust) Ltd v Commonwealth (1991)	109
Smith, Re; Ex p Rundle [No 2] (1991)	89, 116, 117
Socket Screw and Fastener Distributors (NSW) Pty Ltd, Re (1994)	386, 389, 500
Solomon Services Pty Ltd v Woongarra Shire Council (1988)	94
Solorio v United States (1987)	657
Sorby v Commonwealth (1983)	190, 260
Sorrells v United States (1932)	226, 258
Southeast Alaska Conservation Council Inc v State of Alaska (1983)	124
Southeastern Community College v Davis (1979)	335
South Melbourne City Council v Hallam [No 2] (1994)	84
Spencer's Case (1583)	163, 170
Spratt v Hermes (1965)	379, 380, 383, 402, 403, 426, 441, 460, 477, 493, 494, 495
Squires v Qantas Airways Ltd [No 1] (1985)	322
Squires v Qantas Airways Ltd [No 2] (1985)	322
Srimati Bibhabati Devi v Kumar Ramendra Narayan Roy (1946)	648, 655
Stack v Coast Securities (No 9) Pty Ltd (1983)	379, 380, 384, 386, 474, 481, 490
Stafford v The Queen (1993)	43, 44
Stamp Duties, Commissioner of (NSW) v Owens [No 2] (1953)	384, 424, 446
Stanley-Hill v Kool (1982)	518
State Authorities Superannuation Board v Commissioner of State Taxation (WA) (1996)	435
State Chamber of Commerce and Industry v Commonwealth (the Second Fringe Benefits Tax Case) (1987)	490
State Rail Authority of NSW v Codelfa Construction Pty Ltd (1982)	511
Steele v Mirror Newspapers Ltd (1974)	574
Stevens v West Australian Newspapers Ltd (1994)	556, 592
Strickland v Rocla Concrete Pipes Ltd (1971)	392

Sungravure Pty Ltd v Middle East Airlines Airliban SAL (1975)	532, 544, 580
Superannuation Fund Investment Trust v Commissioner of Stamps (SA) (1979) ..	498
Sutherland v Stopes (1925)	557
Sydney City Council v Building Owners and Managers Association of Australia Ltd (1985)	105
Sykes v Cleary (1992)	61, 316
System Federation v Wright (1961)	250
T (an Infant), Re (1990)	471
Tafflin v Levitt (1990)	456
Taite v Gosling (1879)	169
Tasmanian Dam Case (Commonwealth v Tasmania) (1983)	332, 333
Taxation, Deputy Federal Commissioner of (NSW) v W R Moran Pty Ltd (1939)	382, 477, 497
Taxation, Federal Commissioner of v Broken Hill South Ltd (1941)	650
Taxation, Federal Commissioner of v Just Jeans Pty Ltd (1987)	615
Taxation, Federal Commissioner of v Krakos Investments Pty Ltd (1995)	619, 632, 634, 635
Taxation, Federal Commissioner of v Munro; British Imperial Oil Co Ltd v Federal Commissioner of Taxation (1926)	219, 231, 403
Taxation, Federal Commissioner of v Murry (1996)	608, 630, 634, 637, 638
Taxation, Federal Commissioner of v Top of the Cross Pty Ltd (1981)	632
Taxation, Federal Commissioner of v Williamson (1943)	615, 620, 633, 634
Taylor v Attorney-General (Q) (1917)	375, 483
Taylor v Jecks (1993)	533, 544, 579, 580
Tekmat Investments Pty Ltd v Ward (1988)	87, 88
Templeton v Jones (1984)	528
Thiel v Federal Commissioner of Taxation (1990)	333
Thom v Associated Newspapers Ltd (1964)	526, 540, 584, 587, 588
Thomas v David (1836)	7, 21
Thomas and Henry, The v United States (1818)	235
Thompson v Australian Capital Television Pty Ltd (1996)	50, 57
Thomson Australian Holdings Pty Ltd v Trade Practices Commission (1981)	89
Thorpe v Commonwealth [No 3] (1997)	113
Thunderdome Racetime and Scoring Pty Ltd v Dorian Industries Pty Ltd (1992)	508, 509
Tillmanns Butcheries Pty Ltd v Australasian Meat Industry Employees' Union (1979)	651, 670
Tobacco Institute of Australia Ltd v Australian Federation of Consumer Organisations Inc [No 2] (1993)	116, 117
Tomlinson v Land and Finance Corporation (1884)	518
Toohy v Metropolitan Police Commissioner (1965)	21, 22
Tooth & Co Ltd v Commissioner of Stamp Duties (NSW) (1909)	620
Toth v Quarles (1955)	657
Townsend's Case (1553)	379, 451
Tracey, Re; Ex p Ryan (1989)	206, 379, 404, 657, 659, 668, 669
Trego v Hunt (1896)	164, 612, 614, 617, 631
Trimbole v Commonwealth (1984)	135, 151
Truax v Corrigan (1921)	626
Truman, Re; Ex p Natwest Investments Australia Pty Ltd (1990)	471
Tse Chu-Fai v Governor of Metropolitan Reception Centre (1997)	133
Tulk v Moxhay (1848)	160, 163
Ulster County Court v Allen (1979)	236
Union Steamship Co of Australia Pty Ltd v King (1988)	376, 480
United States v Brown (1965)	237
United States v Cotroni (1989)	134
United States v Martinez (1984)	670, 672
United States v O'Grady (1874)	255
United States v Russell (1973)	259, 275

United States v Swift & Co (1932)	250
United States v Virginia (1997)	342
University of Wollongong v Metwally (1984)	462
Upper Hunter County District Council v Australian Chilling & Freezing Co Ltd (1968)	68
Uren v John Fairfax & Sons Pty Ltd (1966)	603
Usery v Turner Elkhorn Mining Co (1976)	237
Victoria v Commonwealth (1937)	426
Victoria v Commonwealth (Industrial Relations Act Case) (1996)	141, 287, 297, 301, 312, 313, 332, 338, 339, 407, 458, 461
Victorian Stevedoring and General Contracting Co Pty Ltd and Meakes v Dignan (1931)	206, 207, 401, 453, 486
Vidler v Secretary, Department of Social Security (1995)	90
Visbord v Federal Commissioner of Taxation (1943)	64, 70
Viscount De L'Isle v Times Newspapers Ltd (1988)	527, 543, 545
Walker v European Electronics Pty Ltd (1990)	62
Walton v Gardiner (1993)	256
War Crimes Act Case (Polyukhovich v Commonwealth) (1991)	186, 202, 203, 207, 208, 221, 231, 234, 256, 257, 259, 261, 273, 274, 277, 278, 379, 401, 495
Ward v Williams (1955)	458
Wason v Walter (1868)	556, 585, 586
Water Conservation and Irrigation Commission (NSW) v Browning (1947)	81, 84, 555
Waterhouse v Station 2GB Pty Ltd (1985)	587, 588
Waters v Public Transport Corporation (1991)	307, 332
Waters v Sunday Pictorial Newspapers Ltd (1961)	543
Waterside Workers' Federation of Australia v J W Alexander Ltd (1918)	186, 231, 278, 404, 419, 440
Watkin v Hall (1868)	528
Webb v Russell (1789)	167
Webster v Lampard (1993)	514
Weddell v Pearce & Major (1988)	89
Wedderburn v Wedderburn (1856)	615
Wentworth v Attorney-General (NSW) (1984)	82, 88
West v Commissioner of Taxation (NSW) (1937)	462
West Australian Psychiatric Nurses' Association (Union of Workers) v Australian Nursing Federation (1991)	461, 472
Western Air Lines Inc v Criswell (1984)	320
Western Air Lines Inc v Criswell (1985)	333, 342
Western Australia v Commonwealth (Native Title Act Case) (1995)	437, 487
Westhoughton Urban Council v Wigan Coal & Iron Co Ltd (1919)	167
West London Syndicate v Inland Revenue Commissioners (1898)	621
Wheat Case (New South Wales v Commonwealth) (1915)	419
Whelan v John Fairfax & Sons Ltd (1988)	578
White v Commissioners of Works & Public Buildings (1870)	621
White v Tyndall (1888)	53
Whitlock v Brew (1968)	68
Wilcox Mofflin Ltd v New South Wales (1952)	478
Wilde v The Queen (1988)	649, 664, 665
Wilkes v Spooner (1911)	163, 165
Willey v Synan (1935)	508, 511
Williams v Spautz (1992)	256
Williamson v Ah On (1926)	189, 190, 225, 234, 235, 236, 260
Willocks v Anderson (1971)	459, 491
Wilson v Minister for Aboriginal and Torres Strait Islander Affairs (1996)	187, 201, 230, 481
Wilson v The Minister (1996)	255, 256, 257, 265
Wilson v Wilson (1967)	655

Woodger v Federal Capital Press of Australia Pty Ltd (1992)	527, 543
Wright v Gibbons (1949)	57
Wrights Hardware Pty Ltd v Evans (1988)	53, 65, 68
Wyatt v Albert Shire Council (1987)	94
X v Department of Defence (1995)	293, 294
Z v Z (1989)	634