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JUSTICES OF THE HIGH COURT OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

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## FOREWORD

The publication of volume 200 of the Commonwealth Law Reports occurs after 100 years of Federation, and ninety-seven years of decision making by the High Court of Australia.

Shortly after the establishment of the High Court in 1903, arrangements were made by the Chief Justice, Sir Samuel Griffith, and the Attorney-General, for the publication by the Law Book Company of Australasia, in conjunction with Harston, Partridge & Co, Printers, of a set of reports of judgments of the Court. On 21 December 1903, Mr R R Garran, the Secretary of the Attorney-General's Department, wrote to the publishers and printers in response to a request for "permission to have these reports recognized as the authorised issue". The letter recorded that the Chief Justice and other Justices had informed the Attorney-General that they were willing to revise the proofs of the reports, and to give any other assistance in their power to the reporters. That, Mr Garran said, would give to the reports the desired status. The letter also noted that it was understood that the High Court, and the Attorney-General's Department, would be consulted as to the form of the reports, and the mode of reporting. Such consultation has occurred, from the beginning.

The selection of cases considered appropriate for inclusion in the authorised reports of the judgments of the Court has always been an important responsibility of the Editor. Selectivity is one of the most valuable features of a set of authorised reports. In 1994, a special volume, containing a rather whimsical Foreword by Sir Anthony Mason, was published. It contained judgments dating back to 1942 which, upon reconsideration, were thought reportable.

Following the amendments to the *Judiciary Act* in 1984, by which special leave was required in the case of all appeals to the Court, the process of selection, no doubt, has become more difficult. Before then, most appeals came as of right and turned upon the application of settled principle to the facts. Since then, an appeal only comes before the Court if it warrants a grant of special leave. The Court, therefore, deals with a greater number of cases which raise some important and doubtful question of principle. Inevitably, more of the Court's decisions are reportable. That is part of the explanation of the increase, in the last ten years, in the number of volumes published. In that period, there have been thirty-two volumes. In the last five years, there have been eighteen volumes. The first eighteen volumes covered fourteen years. The first thirty-two volumes covered twenty-three years. It should be added that there were fewer Justices in those early years, although joint judgments were rare.

There have been only seven Editors. Two of them, Mr B Sugerman KC and Mr B P Macfarlan QC, later became members of the Supreme Court of New South Wales. The present Editor, Mr J D Merralls QC, of

the Victorian Bar, took up the position in 1968. His connection with the High Court had begun with his service in 1960-1961 as Associate to Sir Owen Dixon. In 1994, Sir Anthony Mason congratulated him on his long service and tireless dedication. That tribute is now warmly repeated, after a further six years of service. Mr Merralls has made an invaluable contribution to the Australian judiciary, the legal profession, law teachers, and all users of the reports. That contribution was recognised in 1999 with an award in the Order of Australia.

In 1961, in the case of *Midland Silicones Ltd v Scruttons Ltd*, Viscount Simonds, referring to the English Bar, said that “the Commonwealth Law Reports are too seldom to be found in counsel’s chambers.” It is to be hoped that the authorised reports of selected decisions of the High Court of Australia will remain a basic requirement of Australian legal practitioners.

MURRAY GLEESON



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

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**CORRIGENDA**

**175 CLR 280, footnotes:** Insert “(2)” before “[1900] 2 I.R. 232, at p. 240”.  
Substitute “(3)” for “(2)” and “(4)” for “(3)”. Delete “(4)” before “A.C.  
806”.

**194 CLR 411, par 40, line 3:** For “creditor” read “borrower”.

**194 CLR 415, par 52, line 14:** For “Bank” read “lender”.

**197 CLR 415, line 34:** Omit “and”.

**200 CLR 3, line 11:** For “causal” read “casual”.

**200 CLR 4, line 10:** For “s 4” read “s 14”.

**200 CLR 323, line 1:** Insert “that” before “Court”.

**200 CLR 323, line 15:** Insert “*Australian*” before “*Capital Territory*”.

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