

1955-1956.

THE

# COMMONWEALTH LAW REPORTS

CASES DETERMINED IN THE

## HIGH COURT OF AUSTRALIA

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JUSTICES OF THE HIGH COURT  
OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

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THE RIGHT HONOURABLE SIR OWEN DIXON, P.C., G.C.M.G., CHIEF  
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THE HONOURABLE SIR ALAN RUSSELL TAYLOR, K.B.E.

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ATTORNEY-GENERAL :

SENATOR THE HONOURABLE JOHN ARMSTRONG SPICER, Q.C.

## THE LATE SIR GEORGE RICH.

On 22nd May 1956, at the Sittings of the High Court in Melbourne, DIXON C.J., McTIERNAN, WILLIAMS, WEBB, FULLAGAR, KITTO and TAYLOR JJ. being present, DIXON C.J. said :—

On 14th May the death occurred of SIR GEORGE RICH, who was a judge of this Court for thirty-seven years. He was appointed to the Court on 5th April 1913, but before that he had served for the better part of two years in the Supreme Court of New South Wales, first as an acting judge and then as a judge.

Throughout his remarkable period of judicial service SIR GEORGE RICH displayed qualities that will make his memory live long in the traditions of the law. His unfailing good humour, his lively and ready wit, his ever-fresh and always human outlook upon the problems of life and law which day by day come before this Court, his great instinct for realism in the administration of the law, his shrewd penetration, his pungent observations and his great friendliness to the Bar and, indeed, all concerned in the work of the Court, these qualities in the course of his long career combined to render him a conspicuous and loved judicial figure of marked individual character.

Throughout his very long occupancy of judicial office he adhered steadily and, indeed, with remarkable uniformity, to the canons of judicial method which he laid down for himself and ever besought others to follow. He held that cases were best understood if arguments were delivered from the Bar with little or no interruption from the Bench, and that judgments were most convincing and effective if they were brief and were expressed in plain but good and scholarly prose unadorned with polysyllables and long passages quoted from decided cases or other works of authority. Yet above all things he believed in the need of consulting case law upon any legal subject before the Court pronounced upon it, and for some years after he came to this Bench he could often be seen, during the prolonged discussions of those days, sending for book after book, until suddenly he brought to the notice of his colleagues some reported illumination of the topic in hand. During his life as a judge he took part in very many constitutional cases, some of them having the greatest consequences in the history of this Commonwealth. In the divisions of opinion which marked his earliest years on this Bench his view not seldom proved decisive. In general he was against restrictive interpretations of constitutional power, over-literal constructions and, in questions of restraints or checks upon legislative authority, too strict an insistence upon them.

SIR GEORGE RICH came from the University of Sydney, where, in an age of classical scholarship, he fell under the influence of the great Professor Badham. To the end SIR GEORGE'S interest in and admiration for scholarship remained, and the mark of an early classical discipline was clear and strong upon all that he wrote and said.

Of the present judges of this Court three sat for many years with him upon the Bench and the others enjoyed not only a long professional familiarity with him but his friendship. To be associated with him in intimate judicial life meant an experience of very special value, and only his colleagues can know how much his learning, his humour, his sceptical good sense, his basic realism and, above all, his friendly intercourse, contributed to the life and work of the Court. To all of us he was for a great part of our lives a conspicuous judicial personality of whose influence we were profoundly conscious and whose place among us no one else can exactly occupy. His death brings to an end a great career and leaves us the poorer for the loss of one representing a splendid tradition and a friend we held in high esteem.

On 15th May 1956 in the Judicial Committee VISCOUNT SIMONDS who presided referred to the death of SIR GEORGE RICH as follows :—

“ Sir Garfield and Mr. Gahan yesterday brought us the news of the death of our colleague, SIR GEORGE RICH, and it is proper that in this place, where we are engaged in discussing one of those constitutional problems to whose solution he made a notable contribution, we should pay a brief tribute to his memory.

Remembering him as he was when he was recently among us, vigorous, alert and incisive, for all that he had long passed his four score years, it is not easy to think of him as a colleague in the High Court of Australia of such men as SIR SAMUEL GRIFFITH and SIR EDMUND BARTON, men who have taken a large part in the future of the Commonwealth and for its High Court established a judicial reputation which has not been surpassed in Her Majesty's Dominions.

SIR GEORGE RICH truly bridged generations, and through all his long career he won and retained the regard and esteem of young and old who were privileged to know him. It gives us pleasure to know that he derived much happiness from the fact that he was made a Bencher of one of our Inns of Court. That was a symbol of the esteem in which he was held by us all.

We join with his fellow Australians in honouring his memory and mourning his loss.”

SIR GARFIELD BARWICK :

“ If your Lordships please, my learned friends and I would wish to join with your Lordships in these expressions on the occasion of his death, of which we learned with some sorrow.

My Lords, SIR GEORGE, after a distinguished career at the Bar of New South Wales, joined the Bench of the Supreme Court of that State in July 1912, where he sat until his translation to the Bench of the High Court of Australia in April 1913. His office as Justice of that Court he laid down in May 1950, thus ending by retirement a judicial career of some thirty-eight years in all. He served, as your Lordship has observed, under each Chief Justice who has presided over the High Court from its inception until his retirement, and himself acted as its Chief Justice for some period of time.

To the resolution of innumerable cases on a great diversity of subjects, many of great importance in the history of Australia, he brought much learning, wide experience, notable perspicacity and wisdom. At the end, my Lords, after so long and so distinguished an occupancy of the Bench, none could have been found to whom he had been discourteous or inconsiderate, none who had found him inattentive to duty or to the matter in hand. Few, indeed, there were, who had not experienced and enjoyed his ready wit, and his great and kindly sense of humour. To the recorded judgments of the High Court he brought lustre and not a little distinction by the lucidity and literary style of his expression and his felicity of phrase.

We, my Lords, who have come from afar to plead at your Lordships' Bar, do indeed appreciate the notice which your Lordships have taken of his passing ; and, with no small degree of pride in his achievement and in the excellency of his character, and rich in many memories of his charming personality, would respectfully add our affectionate tribute to SIR GEORGE RICH.

If your Lordships please.”

VISCOUNT SIMONDS :

“ Thank you, Sir Garfield Barwick.”

MR. GAHAN :

“ My Lords, the English Bar would wish to be associated with the tribute of your Lordships and of Sir Garfield Barwick to SIR GEORGE RICH. The admiration and affection in which he was held were shown by the pride the English Bar had in his election as an Honorary Bencher of one of the Inns of Court, which your Lordship has said gave him so much pleasure, and gave no less pleasure to the English Bar.”

VISCOUNT SIMONDS :

“ Thank you, Mr. Gahan.”

THE mode of citation of this volume of the COMMONWEALTH LAW REPORTS will be as follows :—

94 C.L.R.

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