1997

THE FEDERAL COURT REPORTS

THE AUTHORISED REPORTS OF DECISIONS OF THE FEDERAL COURT OF AUSTRALIA

EDITOR VICTOR KLINE

Barrister-at-Law

CONSULTING EDITOR
DAVID CATTERNS QC

VOLUME 79

LBC INFORMATION SERVICES
1998

REPORTERS

RICHARD R S TRACEY QC DR J M BENNETT DR RONALD J DESIATNIK PETER HANKS NICHOLAS ILES MAREE KENNEDY VICTOR KLINE DAVID MACLEAN SASHI MAHARAJ CARMEL MULHERN IAN PIKE RODEN PRITCHARD MATTHEW SMITH ANNE WARDELL JARROD WHITE MICHAEL WHITTEN

PRODUCTION EDITORS
PAUL O' BEIRNE
JULIE SANDERS

Published in Sydney by LBC Information Services 50 Waterloo Road, North Ryde, NSW 239 George Street, Brisbane, Queensland 77 St George's Terrace, Perth, WA

ISSN 0813-7803

© Thompson Professional Information Asia Pacific Pty Ltd t/as LBC Information Services 1998

Typeset by Mercier Typesetters, Granville, NSW Printed by Ligare Pty Ltd, Riverwood, NSW

FEDERAL COURT OF AUSTRALIA

CHIEF JUSTICE

THE HONOURABLE MICHAEL ERIC JOHN BLACK, AC

JUDGES

THE HONOURABLE RAYMOND MOYLE NORTHROP (retired 31 August 1998)

THE HONOURABLE JOHN FOSTER GALLOP, AM, RFD

THE HONOURABLE JOHN DARYL DAVIES (retired 31 August 1998)

THE HONOURABLE JOHN STANLEY LOCKHART, AO

THE HONOURABLE BRYAN ALAN BEAUMONT

THE HONOURABLE MURRAY RUTLEDGE WILCOX

THE HONOURABLE JEFFREY ERNEST JOHN SPENDER

THE HONOURABLE PETER ROSS AWDRY GRAY

THE HONOURABLE JAMES CHARLES SHOLTO BURCHETT

THE HONOURABLE JEFFREY ALLAN MILES, AO

THE HONOURABLE DONNELL MICHAEL RYAN

THE HONOURABLE ROBERT SHENTON FRENCH

THE HONOURABLE MARCUS RICHARD EINFELD, AO

THE HONOURABLE MICHAEL LEADER FOSTER

THE HONOURABLE ALASTAIR BOTHWICK NICHOLSON, AO, RFD

THE HONOURABLE MALCOLM CAMERON LEE

THE HONOURABLE HOWARD WILLIAM OLNEY

THE HONOURABLE JOHN WILLIAM VON DOUSSA

THE HONOURABLE DONALD GRAHAM HILL

THE HONOURABLE MAURICE FRANCIS O'LOUGHLIN

THE HONOURABLE DEIRDRE FRANCES O'CONNOR

THE HONOURABLE TERENCE JOHN HIGGINS

THE HONOURABLE PETER CADDEN HEEREY

THE HONOURABLE DOUGLAS PATON DRUMMOND

THE HONOURABLE RICHARD ELLARD COOPER

THE HONOURABLE ANTONY PHILIP WHITLAM

THE HONOURABLE CHRISTOPHER JOHN SEYMOUR METFORD CARR

THE HONOURABLE MICHAEL FRANCIS MOORE

THE HONOURABLE CATHERINE MARGARET BRANSON

THE HONOURABLE JANE HAMILTON MATHEWS

THE HONOURABLE KEVIN EDMUND LINDGREN

THE HONOURABLE BRIAN JOHN MICHAEL TAMBERLIN

THE HONOURABLE RONALD SACKVILLE

THE HONOURABLE SUSAN MARY KIEFEL

THE HONOURABLE ROBERT DAVID NICHOLSON

THE HONOURABLE PAUL DESMOND FINN

THE HONOURABLE ROSS ALAN SUNDBERG

THE HONOURABLE SHANE RAYMOND MARSHALL

THE HONOURABLE JOHN ROBERT FELIX LEHANE

THE HONOURABLE ANTHONY MAX NORTH

THE HONOURABLE RODNEY NEVILLE MADGWICK

THE HONOURABLE RONALD MERKEL

THE HONOURABLE JOHN RONALD MANSFIELD

THE HONOURABLE ALAN HENRY GOLDBERG

THE HONOURABLE ALAN HERRI GOLDBERG

THE HONOURABLE ARTHUR ROBERT EMMETT

THE HONOURABLE RAYMOND ANTONY FINKELSTEIN

THE HONOURABLE GEOFFREY MICHAEL GIUDICE

THE HONOURABLE MARK SAMUEL WEINBERG

THE HOLOCIAIDEE WANTE STATES WENTER

THE HONOURABLE JOHN ALFRED DOWSETT

THE HONOURABLE LESLIE SYDNEY KATZ

THE HONOURABLE PETER GRAHAM HELY

THE HONOURABLE SUSAN CORALIE KENNY