CONTENTS

List of Contributors  page viii
List of Figure  x
List of Table  xi
Acknowledgments  xii
Table of Cases  xv

1  Introduction – What Makes a Dissent ‘Great’?  1
   ANDREW LYNCH

2  Justice Barton and the Demise of the Inter-State Commission in
   the Wheat Case (1915)  20
   OSCAR ROOS

3  Unrequited but Still Great – The Dissent of Justices
   Dixon and Evatt in R v Federal Court of Bankruptcy; Ex parte
   Lowenstein (1938)  39
   ANDREW LYNCH

4  Justice Evatt and the Lost Child in Chester v Waverley
   Corporation (1939)  58
   BARBARA MCDONALD

5  Uther’s Case (1947): Justice Dixon and the Troubled Legacy of
   the Commonwealth Immunity Doctrine  80
   STEPHEN MCDONALD AND ANNE CARTER

6  ‘Lone, vehement and incredulous’: Chief Justice Latham in the
   Communist Party Case (1951)  97
   GEORGE WILLIAMS

7  Public Prosecutor v Oie Hee Koi (1968): Not So Humbly
   Advising? Sir Garfield Barwick and the Introduction of
# Table of Contents

Dissenting Reasons to the Judicial Committee of the Privy Council 116

**Olivier Jones**

8 The Trouble with Duress: The Dissent of Chief Justice Bray in *R v Brown and Morley* (1968) 131

**Joe McIntyre**

9 The ‘Intelligence of a Future Day’: The Vindication of Justice Stephen's Dissent in *Henry v Boehm* (1973) 150

**Michael Coper**

10 Justice Mason in the *Australian Assistance Plan Case* (1975): Nationhood, Federalism and Commonwealth Executive Power 169

**Peta Stephenson**


**Matthew Groves**

12 The Essence of a Fiduciary Relationship: Justice Mason’s Dissent in *Hospital Products Ltd v United States Surgical Corporation* (1984) 209

**Simone Degeling and Greg Weeks**

13 The *Chamberlain* Dissents (1984) 229

**Jeremy Gans**

14 Treachery or Heroism? The Judgment of Justices Deane and Toohey in *Leeth v Commonwealth* (1992) 251

**Amelia Simpson**


**Adrienne Stone and Kristen Walker QC**


**Sean Brennan**
CONTENTS

17 When Liberty Divides: Judicial Cleavages and their Consequences in *Al-Kateb v Godwin* (2004) 311
   A J BROWN

18 He Who Would Not Be Muzzled: Justice Heydon’s Last Dissent in *Monis v The Queen* (2013) 335
   GABRIELLE APPLEBY AND HEATHER ROBERTS

Index 355