

## INDEX

- A v Secretary of State for the Home Department*, 249–50
- Aboriginal Australians, 107
- Aboriginal communities, 215
- Aboriginal Land Rights (Northern Territory) Act (1976), 216
- abortion clinic protests, 116–17
- Act of Settlement (1701), 56
- ad-hoc special powers, 214–15
- Adelaide Company of Jehovah's Witnesses Inc v Commonwealth*, 50–1
- Administrative Decisions (Judicial Review) Act (1977), 212
- Agreement on Australia's National Counter-Terrorism Arrangements* (2002), 137
- Agreement on the Application of Sanitary and Phytosanitary Measures* (WTO), 203
- Al Qa'ida, 151
- alcohol sale regulations, 38
- Alice Springs (Management of Public Places) By-Laws (2009), 100
- alien doctors, 38
- 'all-hazards' approach, 181
- alternative base of authority, 14
- American Revolutionaries, 62–3, 82
- ancillary special powers, 180
- Andrews v Howell*, 50
- Anisminic v Foreign Compensation Commission*, 256
- anti-assembly powers, 103–17
- anti-association measures, 117–21
- anti-bikie laws, 88
- anti-consorting laws, 120–1
- anti-protest laws, 110–17
- anti-terrorism legislation, 136–7
- Appropriation (Nation Building and Jobs) Act (No. 1) (2009), 217
- Appropriation (Nation Building and Jobs) Act (No. 2) (2009), 217
- arbitrary executive detention, 80, 166
- ASIO detention, 156–8
- asylum seekers, 77–8
- Attorney-General (NSW) v Quin*, 248
- Attorney-General (NT) v Emmerson*, 159
- Attorney-General (SA) v Corporation of the City of Adelaide*, 102
- Attorney-General (Vic) v Commonwealth*, 40
- Australia
- capacities of legal person, 69–71
  - civil emergencies and special powers, 179–99
  - constitutional system, 15
  - emergency powers, 65–80
  - nature and source of executive power, 56–62
  - powers arising under statute, 66–9
  - public order framework, 83–9
  - sedition cases, 129–31
  - war on terror, 1
- Australian Capital Territory, 96
- Australian Commonwealth Shipping Board, 40
- Australian Communist Party, 67, 129–30
- Australian Communist Party v Commonwealth*
- defence power, 24, 40
  - executive emergency powers, 66
  - national survival, 18

Cambridge University Press

978-1-107-16653-0 — Emergency Powers in Australia 2nd Edition

H. P. Lee, Michael W. R. Adams, Colin Campbell, Patrick Emerton

Index

[More Information](#)

## INDEX

265

- overview of, 26–33
- proportionality principle, 48–9
- sedition offences, 128
- summary, 262–3
- Australian Constitution, 6–7, 15, 26, 64, 83, 172–5, 180, 254, 259
- Australian Defence Force (ADF), 133, 218–20, 222
- Australian Federal Police (AFP), 151–3, 243
- Australian Law Reform Commission (ALRC), 134
- Australian Radiation Protection and Nuclear Safety Act (1998), 201
- Australian Security Intelligence Organisation Act (1979), 156, 243
- authorisation of emergency powers, 123
- authorised public assembly, 107–8
- automation of special powers, 182
- balance of probabilities, 146
- Bali nightclub bombing, 2
- Beale, Roger (Beale Review, 2008), 209
- Belmarsh. See A v Secretary of State for the Home Department*
- Bhagat Singh & Ors v The King Emperor*, 3
- Bill of Rights (1688/89), 56
- biological emergencies, 200–2
- Biosecurity Act (2015), 209–11, 213–14
- biosecurity emergencies, 202–5, 208–14
- Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*, 215
- body politic, 45–6
- Brown v Tasmania*, 111, 113–15
- Burmah Oil Co Ltd v Lord Advocate*, 79–80
- Burns v Ransley*, 129–31
- business protests, 112–16
- CBRN hazards, 200–2
- ‘chameleon’ doctrine, 149
- chemical emergencies, 200–2
- Christmas advertising regulations, 38
- Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs*, 76, 165–6, 168
- Civil Contingencies Act (2004), 177–80, 191
- civil emergencies and special powers. *See also* military aid to civil power
- ad-hoc special powers, 214–15
- Australia, 172–5, 179–99
- biosecurity, 202–5
- chemical, biological, radiological, nuclear emergencies, 200–2
- comparisons and differences, 190–9
- defined, 170
- environmental emergencies, 199–200
- of general application, 175–99
- global financial crisis, 216–17
- introduction to, 170–2
- Northern Territory National Emergency Response, 215–16
- public health emergencies, 205–8
- special public disorder, 121–2
- of specific application, 199
- United Kingdom, 176–9
- Victoria’s emergency framework, 183–99
- civil regulation, 39
- Clunies-Ross v The Commonwealth*, 80
- coal mining industry, 255
- Coleman v Power*, 87, 92
- Commissioner of Police, 98
- Commissioner of Taxation v Futuris Corporation Ltd*, 258
- common experience, 25
- common law offence, 90–1
- Commonwealth Australian Radiation Protection and Nuclear Safety Agency, 201
- Commonwealth Heads of Government Regional Meeting (CHOGRM), 220
- Commonwealth Inscribed Stock Amendment Act (2009), 217
- Commonwealth of Australia Constitution Act*, 225. *See also* Australian Constitution
- Commonwealth Parliament powers, 67
- Commonwealth Treasury, 72
- Commonwealth v Australian Commonwealth Shipping Board*, 40

- Communist Party, 66
- Communist Party case. See Australian Communist Party v Commonwealth*
- Communist Party Dissolution Act (1950), 26, 28–9, 35–6, 47, 128
- Community Protection Act (1994), 159
- compartmentalisation, 147–8
- compulsory acquisitions of property, 68
- Condon v Pompano*, 118
- constitutional democracies, 83
- constitutional dictatorship, 176
- constitutional facts, 29
- constitutional government, 3
- constitutional law, 172
- constitutional protection for political assembly, 85–9
- constitutional theory, 33
- constitutional validity, 74
- constitutionalised framework of emergency powers, 7
- Control of Weapons Act (1990), 124
- control orders, 88, 117, 138, 141–2, 145–52, 211–12
- Conway v Rimmer*, 16
- coordinative powers, 178
- Corporation of the City of Enfield v Development Assessment Commission* ('*Enfield*'), 248
- counter-terrorism framework, 136, 140
- Counter-Terrorism Legislation Amendment (Foreign Fighters) Act (2014), 135
- CPCF v Minister for Immigration and Border Protection*, 253
- Crime and Misconduct Commission (CMC), 105–6
- Crimes (Criminal Organisations Control) Act (2012), 120
- Crimes (Internationally Protected Persons) Act (1976), 229
- Crimes (Serious Crime Prevention Orders) Act (2016), 120
- Crimes Act (1900), 115
- Crimes Act (1914), 132–3, 153
- Criminal Code Act (1995), 132, 134–5, 243
- Criminal Code Amendment (Prevention of Lawful Activity) Bill (2015), 111
- Criminal Investigation Act (2006), 124–5
- criminal offense legislation, 76
- Criminal Organisation Act (2009), 118
- Cronulla Riots, 84–5, 101, 122
- Cunliffe v Commonwealth*, 131
- Cyclone Debbie, 173
- declaration of emergency, 212–13
- declaration of war, 77
- Defence (General) Regulations (1939), 144
- Defence Act (1903), 138–9, 219, 226–7, 229–30
- Defence Legislation Amendments (Aid to Civilian Authorities) Act (2000), 15
- Defence of the Realm Act (1914), 177
- defence power
  - central conception of, 146
  - Communist Party Case*, 24, 26–33
  - Farey v Burvett*, 17, 19–23
  - fluidity of, 145
  - introduction to, 17–18
  - limits of, 49–52
  - Marcus Clark & Co Ltd v Commonwealth*, 33–6
  - peacetime phase, 40–1
  - post-war phase, 38–40
  - pre-*Thomas* phase, 18–20
  - proportionality principle and, 48–9
  - Stenhouse v Coleman*, 23–6
  - summary of, 52–3
  - Thomas v Mowbray*, 41–8
  - variable scope of, 36–41
  - war preparation phase, 41
  - wartime phase of, 37–8
- Defence Preparations (Capital Issues) Regulations, 34–5
- Defence Preparations Act (1951), 34
- deference in judiciary emergency powers, 247–52
- democratic institutions, 54
- democratic polity, 15

- Department of Foreign Affairs and Trade, 243
- desired end of legislation, 25–6
- Digest of the Criminal Law* (Stephen), 128–9
- direct choice, 68
- Disaster Management Act (2003), 190, 195–6
- Dixon, J., 5
- domestic non-justiciability, 244
- domestic violence, 224, 228–9
- Ebola virus, 205, 208
- economic dislocation/instability, 34
- economic globalization, 84
- emergency, defined, 3–7
- Emergency Coordinators, 178
- emergency fiscal policy, 74
- Emergency Management Act (1983), 184
- Emergency Management Act (1986), 186, 189
- Emergency Management Act (2004), 196–7, 206
- Emergency Management Act (2005), 194
- Emergency Management Act (2006), 197–8
- Emergency Management Act (2013), 184–9
- emergency powers. *See* civil emergencies and special powers in Australia, 65–80
- capacities of legal person, 69–71
- civil emergency, 121–2, 170–1, 173–5, 179–99
- emergency, defined, 3–7
- emergency frequencies, 13–15
- executive power and, 62–5
- general themes, 1–3
- international norms, 11–13
- over-reaction dangers, 8–11
- overview, 15–16
- powers arising under statute, 66–9
- requisition during war, 78–80
- special emergency powers, 121–7
- summary of, 80–1
- unfettered emergency powers, 204
- Emergency Powers (Defence) Act (1939), 144
- Emergency Powers Act (1920), 176–7, 180, 183
- enemy resistance, collapse of, 39
- enumerated powers, 65, 84
- environmental emergencies, 199–200
- environmental movement, 110
- espionage activities, 27
- Essential Services Act (1948), 183
- Essential Services Act (1958), 183–4, 186
- ‘essentials of life’ for community, 183
- European Convention on Human Rights, 12, 250
- Ex parte Boilermakers’ Society of Australia* (‘Boilermakers’), 148, 175
- executive power
- appropriate to national government, 71–8
  - Australia, 56–62
  - emergencies and, 62–5
  - inherent authority, 57–61, 66, 77
  - introduction to, 54–5
  - nature and source of, 55
  - transfers of, 20
  - United Kingdom, 55–6
- executive preventative detention, 154
- extraterritorial effect, 60
- Farey v Burvett*, 17, 19–23, 49–50
- federal legislation in wartime, 22–3
- federal trade unions, 28
- federalism, 146, 246
- Fraser v County Court of Victoria*, 93
- freedom of association, 142
- freedom of expression, 84, 142
- freedom of movement, 142
- French revolution, 82
- Fuel Emergency Act 1977, 184
- fundamental freedoms, 169
- fundamental liberties, 8
- G20 (Safety and Security) Act (2013), 110–11
- Geneva Conventions Act (1957), 243
- Gibbs, Harry, 131–2

- global financial crisis (2008-2009), 75, 216–17
- global terrorism, 262
- Government Gazette*, 184
- Gratwick v Johnson*, 51
- Grollo v Palmer*, 150, 160–1, 169
- habeas corpus*, 82
- Habib v Commonwealth of Australia*, 242–5
- Hamilton, Alexander, 52
- ‘Henry VIII’ powers, 178
- Heydon, J., 4–5
- High Court and control orders, 145–52
- High Court of Australia, 61, 145–52
- H1N1 influenza epidemic, 205
- Holland v Jones*, 30
- Household Stimulus Package Act (No. 2) (2009), 217
- Huddart Parker and Co Pty Ltd v Moorehead*, 148
- Human Rights Act (1998), 250
- human rights law, 12
- human rights restrictions, 14
- humanitarian military intervention, 12
- Illawarra District County Council v Wickham*, 40
- immigration, 84
- immunities, 60, 171
- In re Debs*, 84
- inadequate measures against emergency threat, 5
- Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act (2016), 113, 115
- Inclosed Lands Protection Act (1901), 115
- Income Tax Assessment Act (1936), 258–9
- industrialisation, 14
- inherent authority, 57–61, 66, 77
- institutional integrity, 165–9
- inter-State travel prohibitions, 51
- Intergovernmental Agreement on Biosecurity* (2012), 209–10
- intergovernmental agreements, 137, 174, 180, 200, 204
- intergovernmental immunities, 171
- International Covenant on Civil and Political Rights (ICCPR), 12–13, 141
- International Health Regulations* (WHO), 203–4
- international norms, 11–13
- interpretative authority, 248
- involuntary detention, 154
- ‘Islamic gangs’, 101
- Japanese-Americans internment, 10–11
- Jehovah Witnesses, 52
- Joint Committee on the Draft Civil Contingencies Bill, 178–9
- judicial notice, 26
- judicially authorised warrants, 152–8
- judiciary and emergency powers
- deference, 247–52
  - defined, 148–9
  - introduction to, 232
  - judicial restraint, 233–53
  - legislative attempts to prevent limit review, 253–9
  - no validity clauses, 258–9
  - non-justiciability, 233–47
  - privative clauses, 253–8
  - procedural fairness and urgency, 252–3
  - public order framework, 88
  - separation of, 147–8
  - summary, 260
- jurisdictional fact, 241
- Kable v Director of Public Prosecutions* (NSW), 88–9, 140, 158–65
- Kamm v State of New South Wales*, 167
- Kirk v Industrial Court of New South Wales*, 161–2, 257
- Korematsu, Fred, 9–10
- Kuczborski v Queensland*, 118
- ‘lack of expertise’ justification for non-justiciability, 236
- Lange v Australian Broadcasting Corporation*, 86

- Law Enforcement (Powers and Responsibilities) Act (2002), 108, 115, 122, 124–6
- law of defamation, 68
- Le Front de Liberation du Quebec (FLQ), 8–9
- legality principle, 63, 85–6
- legislation in wartime, 22–3
- legislative control executive power, 63–4
- legislature of enumerated powers, 73
- Levy v Victoria*, 87
- liberal democracy, 2, 62, 142
- Lindt Café Siege, 219–20
- Little v Commonwealth*, 143–5
- Liversidge v. Anderson*, 144–5
- Lloyd v Wallach*, 37, 142, 145
- Local Government Act (1989), 99
- Local Government Act (2008), 100
- Madzimbamuto v Lardner-Burke*, 78
- Malayan (Malaysian) Constitution, 5
- manufacturing monopoly, 32
- Marbury v Madison*, 248
- Marcus Clark & Co Ltd v Commonwealth*, 33–6
- Maritime Powers Act (2013), 253
- McCloy v New South Wales*, 86
- McCulloch v Maryland*, 22
- Melbourne Corporation* doctrine, 171, 204
- Melbourne Corporation v Barry*, 85, 94
- Melbourne Corporation v The Commonwealth*, 175
- Mental Health Act (2009), 208
- military aid to civil power
  - defence of superior orders, 231
  - introduction to, 218
  - legislation, 223–4
  - liability concerns, 224–6
  - Lindt Café Siege, 219–20
  - soldier's legal position, 230–1
  - with State application, 222–7
  - Sydney Hilton Bombing, 220–2
  - without State application, 227–30
- military control of naturalised persons, 37
- military defence, 30, 147
- Minister for Immigration and Citizenship v Li*, 239
- mobilised citizenry, 62
- Model Arrangements for Leadership During Emergencies of National Consequence 2010*, 173
- Monis, Man, 219–20
- Monis v The Queen*, 87
- move-on powers, 103–10
- multiculturalism, 84
- Municipal Council of Sydney, 40
- nation states, 42, 46
- National Environmental Biosecurity Response Agreement (2012)*, 209
- national government executive power, 71–8
- National Health Security Act (2007), 201
- National Health Security Agreement (2007)*, 202, 204
- National Security (Apple and Pear Acquisition) Regulations, 50
- National Security (Coal Mining Industry Employment) Regulations, 254
- National Security (General) Regulations, 143
- National Security (Subversive Associations) Regulations, 51
- National Security Act (1939–1940), 51, 143
- National Strategy for Disaster Resilience (2011)*, 173
- naturalised persons, 37
- naval defence, 30, 147
- New Zealand Law Reform Commission, 5–6
- no-evidence ground of review, 240
- no validity clauses, 258–9
- non-emergency public disorder powers, 83
- non-governmental religious organisation, 69
- non-judicial function, 149
- non-justiciability of emergency powers
  - current approach, 234–6
  - exercise of, 236–7

- non-justiciability of emergency powers (cont.)
  - Habib v Commonwealth of Australia*, 242–5
  - impact of, 237–42
  - overview, 233–47
  - Wednesbury unreasonableness ground, 239, 241, 245–7
- non-statutory emergency powers, 71
- non-violent protests, 125
- North Australian Aboriginal Justice Agency Ltd v Northern Territory*, 165, 167–8
- Northern Territory (Self-Government) Act (1978), 216
- Northern Territory National Emergency Response Act (2007), 215–16
- NSW Commissioner of Police v Folkes*, 100
- nuclear emergencies, 200–2
- Nuclear Non-Proliferation (Safeguards) Act (1987), 201
- objective test in preventative detention, 143
- obstruction offenses, 89–94
- October Crisis, 9
- offensive communications, 87
- ouster clauses. *See* privative clauses
- over-reaction dangers, 8–11
- Pankhurst v Kiernan*, 37
- Pape v Federal Commissioner of Taxation*, 4, 72–5, 175, 217
- Parliamentary control, 13
- Parliamentary Reform, 128
- Party for Freedom, 100–2
- 'pax est tranquilla libertas'*, 82
- Peaceful Assembly Act (1992), 95, 110
- peaceful protest, 113
- peacetime phase of defence power, 40–1
- Pearl Harbor attack, 9
- Penalties and Sentences Act (1992), 118–19
- permission systems, 94
- Permit Model, 97–9
- persona designata* doctrine, 149–51, 153, 155
- Police Act (1892), 83
- Police Administration Act (1978), 165, 216
- Police Offences Act (1935), 98
- police powers, 83
- Police Powers and Responsibilities Act (2000), 105, 107
- political assembly, constitutional protection, 85–9
- political communication, 69, 83, 86–7, 100–3, 203, 208–14
- 'polycentric' disputes, 235, 238
- Polyukhovich v The Commonwealth*, 17
- post-*Thomas* phase of defence power, 18
- post-war phase of defence power, 38–40
- powers arising under statute, 66–9
- pre-*Thomas* phase of defence power, 18–20
- prerogative powers, 55, 58–9, 61, 71–80
- presumption in favour of validity, 25
- presumption of innocence, 142
- preventative (preventive) detention, 138, 141–5, 152–8, 165–9
- price controls, 38
- primary aspect of defense power, 40
- Privacy Act (1988), 133
- privileges, as powers, 60
- proclamation of emergency, 183
- proclamation power, 32
- property rights, as powers, 60
- proportionality analysis, 48–9, 86
- Protective Security Co-ordination Centre, 220
- Protective Security Review*, 221
- protest and political communication, 100–3
- Public Assemblies Act (1972), 96
- public demonstrations, 98–9
- public emergency, 251
- Public Health Act (1875), 252
- Public Health Act (1997), 206–7
- Public Health Act (2010), 207
- Public Health Act (2011), 208
- Public Health Act (2016), 207



- Public Health and Wellbeing Act (2008), 249
- public health emergencies, 205–8
- Public Health Emergency Management Plan, 206
- public nuisance offences, 92
- public order, 11
- Public Order (Protection of Persons and Property) Act (1971), 93–4, 228–9
- Public Order (Temporary Measures) Act (1970), 9
- public order framework, 83–9
- Public Order in Streets Act (1984), 97
- public order maintenance
  - abortion clinic protests, 116–17
  - anti-assembly powers, 103–17
  - anti-association measures, 117–21
  - anti-consorting laws, 120–1
  - anti-protest laws, 110–17
  - business protests, 112–16
  - constitutional protection for political assembly, 85–9
  - Delegated Control Models, 94, 99–100
  - framework of, 83–9
  - introduction to, 82–3
  - move-on powers, 103–10
  - Notification model, 95–7
  - permission systems, 94
  - permit models, 97–9
  - protest and political communication, 100–3
  - regulation of political assembly, 89–100
  - sedition offences, 127–35
  - special emergency powers, 121–7
  - subsequent reforms, 131–5
  - unlawful assembly and obstruction offenses, 89–94
- public safety and war on terror
  - definition of judicial power, 148–9
  - institutional integrity and preventative detention, 165–9
  - introduction to, 136–41
  - judicially authorised warrants, 152–8
  - Kable* principle, 158–65
  - persona designata* doctrine, 149–51, 153, 155
  - preventative (preventive) detention, 138, 141–2
  - preventative (preventive) detention, in wartime, 142–5
  - preventative (preventive) detention, overview, 138, 141–2
  - separation of judicial power, 147–8
  - summary of, 169
  - Totani v The State of South Australia*, 163–4
- Public Safety Preservation Act (1958), 183
- Public Safety Preservation Act (1986), 122, 124–5, 190–1, 195–6
- punitive detention powers, 165
- purposive legislative power, 25
- R v Burns*, 128
- R v Commonwealth Court of Conciliation and Arbitration; Ex parte Victoria*, 18–50
- R v Davey*, 252
- R v Foster*, 38
- R v Hickman; ex p Fox*, 254
- R v Kirby*, 148, 175
- R v Sharkey*, 129, 227–8
- R v University of Sydney*, 50
- Racial Discrimination Act (1975), 193
- radiological emergencies, 200–2
- reasonable suspicion, 104
- regal dignity, 55
- regulation-making power, 175
- regulation of political assembly, 89–100
- Reid Commission, 5, 172
- religious diversity, 14
- residue of power, 72
- result-oriented test, 86
- Review of the Criminal Organisation Act 2009* (Wilson), 118
- right to liberty, 142
- right to privacy, 142
- rights-violating intention, 63
- riot, defined, 90, 121–2
- Roosevelt, Franklin, 9–10
- rout, defined, 90
- royal prerogative, 55
- Ruddock v Vadarlis*, 77
- Rule of Law, 2–3, 26, 62



- sabotage activities, 27
- '*salus populi suprema lex esto*' ('Let the welfare of the people be the supreme law'), 11, 169
- Schmitt, Carl, 62–3
- Second World War, 5
- security-sensitive biological agents (SSBA), 201
- sedition offences, 127–35
- September 11, 2001 terrorist attacks, 1–2, 62
- serious civil disturbances, 6
- Serious Crimes Act (2007), 119
- Severe Acute Respiratory Syndrome (SARS) epidemic, 204–5, 208
- 'significant response' qualifier, 198
- smallpox, 204
- socio-political entity, 251
- source of law, 247
- South African constitution, 63
- South Australian Public Health Act (2011), 205
- sovereign authority, 242
- sovereignty of nation-states, 11
- special emergency powers, 121–7.
  - See also* civil emergencies and special powers
- State courts and *Kable* principle, 158–63
- State Disasters Act 1983, 185
- State Emergency and Rescue Management Act (1989), 193, 206–10
- Statutes Amendment (Public Health Incidents and Emergencies) Act (2009), 205
- statutorily conferred power, 71
- statutory authorisation, 78
- statutory powers, 138
- Stenhouse v Coleman*, 23–6
- Stephen Kalong Ningkan v Government of Malaysia*, 3
- strip searches, 125
- subjective test in preventative detention, 143
- 'substantive' dimension of executive power, 75–6
- Summary Offences Act (1953), 92–3
- Summary Offences Act (1966), 107–8
- Summary Offences Act (1966), 93
- Summary Offences Act (1988), 95, 108
- Summary Offences Amendment (Move-on Laws) Act (2015), 108
- sumptuary laws, 22
- supervisory jurisdiction, 237
- Supreme Court of Israel, 263
- Sydney Hilton Bombing, 220–2
- Taskforce on Organised Crime Legislation, 119
- Tax Bonus for Working Australians (Consequential Amendments) Act (No. 2) (2009), 217
- Tax Bonus for Working Australians Act (No. 2) (2009), 217
- tax refund, 73
- telecommunications interception warrants, 169
- temporary character of emergency threat, 5
- terrorism offence/offenders, 135, 140–1
- terrorist acts, 42, 44–5, 48–9, 157, 220
- terrorist organisations, 53
- Thomas v Mowbray*
  - control orders, 169
  - defence power, 41–8, 53, 138–9, 145–6, 168
  - overview of, 15, 151–2
  - preventative detention, 168
  - summary of, 262
- tiers-of-scrutiny approach, 86
- Totani v The State of South Australia*, 163–4
- Trade Practices Act (1974), 133–4
- traditional jurisprudence, 53
- 'triple lock' of 'seriousness, necessity, and geographical proportionality', 179
- UN Human Rights Committee, 13
- UN Special Rapporteurs, 111
- unconstitutional supersession of democratic institutions, 5
- unfettered emergency powers, 204

- United Kingdom
  - civil emergencies and special powers, 176–9
  - emergency executive powers, 73
  - nature and source of executive power, 55–6
  - prerogative powers, 79
- United Nations Security Council, 12
- unlawful assembly, 89–94
- Unlawful Associations Act (1916), 37
- urbanisation, 14
- urgency of emergency threat, 5
- Vagrancy Act (1966), 121
- validity of a law, 32
- validity of federal legislation in wartime, 22–3
- Vicious Lawless Association
  - Disestablishment Act (2013), 118
- Victorian Chamber of Manufactures v Commonwealth*, 50
- Victorian Parliament's Scrutiny of Acts and Regulations Committee, 94
- Victoria's emergency framework, 183–90
- violent disorder, 91
- viral haemorrhagic fevers, 204
- vital industries, 27
- War Measures Act (1914), 8–9
- war on terror, 1–2, 4, 223. *See also* public safety and war on terror
- War Precautions (Prices Adjustment) Regulations (1916), 21
- War Precautions Act (1914), 21, 142
- War Precautions Regulations (1915), 142
- war preparation phase of defence power, 41
- war prerogative powers, 80
- wartime emergencies, 6, 19, 52–3
- wartime phase of defence power, 37–8
- Wednesbury unreasonableness ground, 239, 241, 245–7
- White v Redfern*, 252
- widespread public disorder, 6
- Williams v the Commonwealth*, 69, 75, 246
- Wilson, Alan, 118
- Wilson v Minister for Aboriginal and Torres Strait Islander Affairs*, 150–1
- Windeyer, Victor, 221
- Winterton, George, 26
- Workplaces (Protection from Protesters) Act (2014), 111–12
- World Health Organisation (WHO), 203
- World Trade Organisation (WTO), 203
- World War I, 37
- World War II, 37, 39, 263. *See* Second World War
- Wotton v Queensland*, 102
- Wotton v State of Queensland (No. 5)*, 126, 174–92
- Zika virus, 208