

Cambridge University Press
978-1-108-49461-8 — The Judge, the Judiciary and the Court
Edited by Gabrielle Appleby, Andrew Lynch
Frontmatter
[More Information](#)

THE JUDGE, THE JUDICIARY AND THE COURT

The Judge, the Judiciary and the Court is aimed at anyone interested in the Australian judiciary today. It examines the impact of the individual on the judicial role, while exploring the collegiate environment in which judges must operate. This professional community can provide support but may also present its own challenges within the context of a particular court's relational dynamic and culture. The judge and the judiciary form the 'court', an institution grounded in a set of constitutional values that will influence how judges and the judiciary perform their functions. This collection brings together analysis of the judicial role that highlights these unique aspects, particularly in the Australian setting. Through the lenses of judicial leadership, diversity, collegiality, dissent, style, technology, the media and popular culture, it analyses how judges work individually and as a collective to protect and promote the institutional values of the court.

Gabrielle Appleby is a professor at the Faculty of Law & Justice at UNSW in Sydney, Australia. She is the Director of The Judiciary Project at the Gilbert + Tobin Centre of Public Law and her books include *Judicial Federalism in Australia* (2021), *Australian Public Law* (3rd ed., 2018), *The Role of the Solicitor-General: Negotiating Law, Politics and the Public Interest* (2016); and *The Tim Carmody Affair* (2016).

Andrew Lynch is a professor at the Faculty of Law & Justice at UNSW in Sydney, Australia. He researches constitutional law, judicial dissent and judicial appointments. A Fellow of the Australian Academy of Law, his books include *Blackshield & Williams' Australian Constitutional Law and Theory* (2014, 2018), *Australia's Greatest Judicial Crisis: The Tim Carmody Affair* (2016) and *Great Australian Dissents* (2016).

Cambridge University Press
978-1-108-49461-8 — The Judge, the Judiciary and the Court
Edited by Gabrielle Appleby, Andrew Lynch
Frontmatter
[More Information](#)

THE JUDGE, THE JUDICIARY AND THE COURT

Individual, Collegial and Institutional Judicial
Dynamics in Australia

Edited by

GABRIELLE APPLEBY

University of New South Wales, Sydney

ANDREW LYNCH

University of New South Wales, Sydney



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
978-1-108-49461-8 — The Judge, the Judiciary and the Court
Edited by Gabrielle Appleby, Andrew Lynch
Frontmatter
[More Information](#)

CAMBRIDGE
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108494618
DOI: 10.1017/9781108859332

© Cambridge University Press 2021

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2021

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Appleby, Gabrielle, editor. | Lynch, Andrew, 1973- editor.

Title: The judge, the judiciary, and the court : individual, collegial, and institutional judicial dynamics in Australia / edited by Gabrielle Appleby, University of New South Wales, Sydney; Andrew Lynch, University of New South Wales, Sydney.

Description: Cambridge, United Kingdom ; New York, NY : Cambridge University Press, 2021. | Includes bibliographical references and index.

Identifiers: LCCN 2020042880 (print) | LCCN 2020042881 (ebook) | ISBN 9781108494618 (hardback) | ISBN 9781108796712 (paperback) | ISBN 9781108859332 (epub)

Subjects: LCSH: Justice, Administration of—Australia. | Judges—Australia. | Courts—Australia.

Classification: LCC KU3497 .J828 2021 (print) | LCC KU3497 (ebook) | DDC 347.94/01—dc23

LC record available at <https://lcn.loc.gov/2020042880>

LC ebook record available at <https://lcn.loc.gov/2020042881>

ISBN 978-1-108-49461-8 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

CONTENTS

<i>List of Figures</i>	vii
<i>List of Tables</i>	viii
<i>List of Contributors</i>	ix
<i>Foreword</i>	xiv
Chris Maxwell	
<i>Table of Cases</i>	xvi
PART I The Judge, the Judiciary and the Court	1
1 The Judge, the Judiciary and the Court: the Individual, the Collective and the Institution	3
GABRIELLE APPLEBY AND ANDREW LYNCH	
2 Re-examining the Judicial Function in Australia	22
JOE MCINTYRE	
3 The Chief Justice: Under Relational and Institutional Pressure	50
GABRIELLE APPLEBY AND HEATHER ROBERTS	
PART II Debates and Challenges to the Judicial Role	81
4 Dismantling the Diversity Deficit: Towards a More Inclusive Australian Judiciary	83
BRIAN OPESKIN	
5 Technology and the Judicial Role	116
MONIKA ZALNIERIUTE AND FELICITY BELL	
6 Emotion Work as Judicial Work	143
SHARYN ROACH ANLEU AND KATHY MACK	
7 The Persistent Pejorative: Judicial Activism	163
TANYA JOSEV	

Cambridge University Press
978-1-108-49461-8 — The Judge, the Judiciary and the Court
Edited by Gabrielle Appleby, Andrew Lynch
Frontmatter
[More Information](#)

vi	CONTENTS	
	PART III The Judiciary as a Collective	187
8	Judicial Collegiality	189
	SARAH MURRAY	
9	Individual Judicial Style and Institutional Norms	208
	ANDREW LYNCH	
10	Values and Judicial Difference in the High Court	233
	RACHEL CAHILL-O'CALLAGHAN	
	PART IV Perceptions	257
11	Judges and the Media	259
	MATTHEW GROVES	
12	The Good Judge in Australian Popular Television Culture	283
	PENNY CROFTS	
	<i>Index</i>	307

FIGURES

2.1 Species of dispute resolution methods 29

4.1 Median age of judicial officers, by type and sex, Australia, 1996–2016 102

4.2 Religious affiliation of judicial officers, Australia, 1996–2016 104

4.3 Ancestry of judicial officers and Australian population, 2016 106

4.4 Highest educational level of judicial officers, by type, Australia, 1996–2016 108

4.5 Sex ratio of judicial officers by court level, Australia, 2000–2019 110

10.1 Value analysis of *HML v The Queen* 245

10.2 Value analysis of *BBH v The Queen* 247

10.3 Value analysis of *Lee v New South Wales Crime Commission* 250

10.4 Value analysis of *X7 v Australian Crime Commission* 251

10.5 Value analysis of *Rowe v Electoral Commissioner* 253

Cambridge University Press
978-1-108-49461-8 — The Judge, the Judiciary and the Court
Edited by Gabrielle Appleby , Andrew Lynch
Frontmatter
[More Information](#)

TABLES

4.1 Composition of the Australian population 96
4.2 Marital status of judicial officers, by sex, Australia, 1996–2016 103

CONTRIBUTORS

PROFESSOR GABRIELLE APPLEBY

Dr. Gabrielle Appleby is a professor at the Faculty of Law & Justice, UNSW Sydney. She researches and teaches in public law, with her areas of expertise including the role, powers and accountability of the executive, the role of government lawyers and the integrity of the judicial branch. She is the Director of The Judiciary Project at the Gilbert + Tobin Centre of Public Law and was the founding editor of Australia's national public law blog, AUSPUBLAW. She is currently the constitutional consultant to the clerk of the Commonwealth House of Representatives. In 2016–2017, she worked as a pro bono constitutional adviser to the Regional Dialogues and the First Nations Constitutional Convention that led to the Uluru Statement from the Heart. Her books include *Judicial Federalism in Australia; History, Theory, Doctrine and Practice* (Federation Press, 2021), *Australian Public Law* (Oxford University Press, 3rd ed, 2018), *The Role of the Solicitor-General: Negotiating Law, Politics and the Public Interest* (Hart Publishing, 2016); and *The Tim Carmody Affair* (NewSouth Publishing, 2016). Gabrielle has also spent time working for the Queensland Crown Solicitor and the Victorian Government Solicitor's Office.

DR. FELICITY BELL

Felicity Bell, PhD, is the research fellow for the Future of Law and Innovation in the Profession (FLIP) research stream at the Faculty of Law & Justice at UNSW Sydney, supported by the Law Society of NSW. As the principal researcher for FLIP, Felicity's current research is focused on change and innovation affecting the legal profession. She is the author (with Professor Michael Legg) of *Artificial Intelligence and the Legal Profession* (Hart, 2020). She has examined new technologies in legal practice, lawyers' identities, professionalism and ethics, and family law and children's law and has published extensively in these areas.

DR. RACHEL CAHILL-O'CALLAGHAN

Rachel Cahill-O'Callaghan, PhD (Law), PhD (Science), is currently a reader at Cardiff School of Law and Politics (Cardiff University, Wales). She moved into the study of law from a successful career in academic science and her research combines both specialities, drawing on theories and techniques from psychology to understand judicial decision-making. This chapter was supported by a research visitor fellowship (UNSW) and research leave fellowship (Cardiff University) and builds on the work developed in her monograph *Values in the Supreme Court: Divisions, Decisions and Diversity* (Hart Publishing, 2020).

PROFESSOR PENNY CROFTS

Dr. Penny Crofts is a professor at the Faculty of Law, University of Technology Sydney. She is an expert on criminal law and models of culpability. Her research is cross-disciplinary, drawing upon a range of historical, philosophical, empirical and literary materials to enrich her analysis of the law. Her research is in the area of socio-legal studies, coalescing around issues of justice in criminal law in practice and theory, and makes a distinctive contribution to critical evaluations of criminal legal models of culpability and enforcement. Penny is currently analysing criminal legal conceptions of organisational culpability through horror film and philosophies of wickedness.

PROFESSOR MATTHEW GROVES

Matthew Groves is the Alfred Deakin Professor of Law and Director of Research in the Law School of Deakin University, Australia. Matthew conducts research in public law, most notably administrative law and human rights. He has published and edited many books including Aronson, Groves and Weeks, *Judicial Review of Administrative Action and Government Liability* (Thomson Reuters, 6th ed, 2017) and Groves, Meagher and Boughey (eds), *The Legal Protection of Rights in Australia* (Hart Publishing, 2019). Matthew is general editor of the *Australian Journal of Administrative Law* and a fellow of the Australian Academy of Law.

DR. TANYA JOSEV

Dr. Tanya Josev is a senior lecturer in the Melbourne Law School. She researches twentieth century Australian and United States legal and political history, with particular interests in judicial biography, the history of legalism and the politics of the culture wars as they relate to the

LIST OF CONTRIBUTORS

xi

judiciary. Tanya's recent award-winning book, *The Campaign Against the Courts: A History of the Judicial Activism Debate* (Federation Press, 2017), explored the intellectual and political history of the bifurcated understanding of the judicial role as involving activism versus restraint.

PROFESSOR ANDREW LYNCH

Andrew Lynch teaches and conducts research in the field of Australian constitutional law in the Faculty of Law & Justice at UNSW Sydney. His research concentrates on the topics of federalism, judicial dissent, judicial appointments reform and legal responses to terrorism. He is the author of books including *Blackshield & Williams' Australian Constitutional Law and Theory* (Federation Press, 6th ed, 2014; 7th ed, 2018) and *Australia's Greatest Judicial Crisis – The Tim Carmody Affair* (NewSouth Publishing, 2016). Andrew is also an editor of *Tomorrow's Federation: Reforming Australian Government* (Federation Press, 2012) and of *Great Australian Dissents* (Cambridge University Press, 2016).

PROFESSOR KATHY MACK

Kathy Mack (BA magna cum laude, Rice University; JD Stanford Law School; LLM University of Adelaide) is Emerita Professor, Flinders University. She is the author of a monograph, book chapters and articles on alternative dispute resolution (ADR) and articles on legal education and evidence. Since 1994, with Matthew Flinders Distinguished Professor Sharyn Roach Anleu, Kathy has been engaged in socio-legal research into the Australian courts and judiciary, including an investigation of the production of guilty pleas and research into the everyday work of the judiciary. Their latest books are *Performing Judicial Authority in the Lower Courts* (Palgrave, 2017) and *Judging and Emotion: A Socio-Legal Analysis* (Routledge, 2021).

DR. JOE MCINTYRE

Dr. Joe McIntyre is a senior lecturer in law at the University of South Australia, having previously taught in Canada and the UK. He undertook his PhD thesis at the University of Cambridge where he explored the nature and implications of the judicial function. His subsequent research specialises in pure and applied judicial theory. Joe is the author of *The Judicial Function: Fundamental Principles of Contemporary Judging* (Springer, 2019).

DR. SARAH MURRAY

Professor Sarah Murray is a professor at the University of Western Australia Law School and researches in the areas of constitutional law

and court innovation. She has published across a range of Australian and international journals and is the author of *The Remaking of the Courts: Less-Adversarial Practice and the Constitutional Role of the Judiciary in Australia* (Federation Press, 2014). Sarah is also a co-author of *The Constitution of the Commonwealth of Australia: History, Principle and Interpretation* (Cambridge University Press, 2015) and *Winterton's Australian Federal Constitutional Law: Commentary & Materials* (Thomson Reuters, 3rd ed, 2014); (Thomson Reuters, 4th ed, 2017).

PROFESSOR BRIAN OPESKIN

Brian Opeskin is a professor of law and former associate dean (research) at the University of Technology Sydney. He previously held positions as professor of legal governance at Macquarie University; head of the law school at the University of the South Pacific in Vanuatu; deputy president of the Australian Law Reform Commission; associate professor at Sydney University; and associate to Justice Mason at the High Court of Australia. He researches in the broad field of public law and has written widely on constitutional law; courts, judges and jurisdiction; and international migration law. Brian is a fellow of the Australian Academy of Law.

PROFESSOR SHARYN ROACH ANLEU

Sharyn Roach Anleu is Matthew Flinders Distinguished Professor of Sociology at Flinders University and Fellow of the Australian Academy of the Social Sciences. She is the author of *Law and Social Change* and four editions of *Deviance, Conformity and Control*. With Emerita Professor Kathy Mack, Sharyn leads the Judicial Research Project, undertaking empirical socio-legal research into the Australian judiciary and its courts. Their latest books are *Performing Judicial Authority in the Lower Courts* (Palgrave, 2017) and *Judging and Emotion: A Socio-Legal Analysis* (Routledge, 2021). In 2018 Sharyn and Jessica Milner Davis co-edited *Judges, Judging and Humour* (Palgrave).

DR. HEATHER ROBERTS

Dr. Heather Roberts is an associate professor at ANU Law. She researches in constitutional law, property law and the history and biography of superior courts and is internationally recognised as a leading expert on court ceremonies. In her current research, funded by a fellowship from the Australian Research Council, she is examining how ceremonies in Australian Supreme Courts portray changing perceptions of the essential attributes of judges and judging. She is the founding

Cambridge University Press
978-1-108-49461-8 — The Judge, the Judiciary and the Court
Edited by Gabrielle Appleby, Andrew Lynch
Frontmatter
[More Information](#)

LIST OF CONTRIBUTORS

xiii

convenor of the ANU Law School's Visiting Judges Program, and co-director for the Australian Network of Japanese Law. Prior to entering academia, Heather was a solicitor at one of Australia's largest commercial law firms.

DR. MONIKA ZALNIERUTE

Dr. Monika Zalnieriute is a senior lecturer and Australian Research Council DECRA Fellow (2021–23) at the Faculty of Law & Justice at UNSW Sydney, where she leads a research stream on 'Technologies and Rule of Law' which explores the interplay between law, technology and politics in the digital age. Monika has published in leading law journals, including *Modern Law Review*, *American Journal of International Law*, *Yale Journal of Law & Technology*, *Harvard International Law Journal*, *Berkeley Journal of Gender, Law and Justice*, and the *Stanford Journal of International Law*. She is currently working on a monograph on the geopolitics of data privacy law. These days Monika spends a lot of her time thinking and writing about the rule of law and political economy of technology.

FOREWORD

Judicial life is perhaps one of the most individual – and lonely – of professional callings.

The opening line of this volume immediately signals its distinctiveness of purpose and perspective. Acknowledging the vital public and governmental functions which courts perform, the authors want to understand – want their readers to understand – the realities of judicial life, the nature of the judicial role and of judicial leadership, and the relationship between the work of the individual judge and the institutional framework of the court.

The questions addressed here are of central importance. Do institutional and personal values influence a judge's decisions? Can a chief justice satisfy the demands of efficiency and accountability while respecting the independence of the individual judge? How do judges on a multi-member bench manage disagreement while preserving collegiality? Why have we been so slow to remedy the 'diversity deficit' in Australian courts?

The assumption on which the collection rests is that, in the often-heated debate about individual court decisions, these critical issues are rarely acknowledged. If judicial work is to be fairly evaluated, the authors would argue, it is necessary to understand the complexity of the 'relational dynamics' between judges, between judges and courtroom participants, between courts and the media, and between courts and the wider community.

The informing notion is that of the court as a human institution, of the judge as an individual called upon to exercise the power of the State, who must learn how to discharge the responsibility of making decisions which affect people's lives. The chapters of this book explore, from a range of different perspectives, how individuals – and courts – respond to the high expectations properly placed on them.

The emotional dimension of judging, for example, is rarely spoken of. Every day, in every court, judges are having to manage their own human responses to the circumstances playing out before them, while at the same time dealing with the emotions of others involved in the proceeding. Conscious of her public duty, the judge strives to be objective and dispassionate, while giving expression to her essential humanity.

This is a very important book precisely because it is not written by judges. The elucidation of the judicial role is at once scrupulously independent – probing, challenging and questioning – and strikingly insightful. Importantly, there is a spirit of generosity in the writing, an implicit acceptance that Australian courts and judges go about their work conscientiously and thoughtfully, with a proper appreciation of both the responsibility and the privilege of judicial office.

The development of legal scholarship in this field is greatly to be welcomed. Its further development will, no doubt, be enhanced by collaborative engagement with judges and retired judges, of the kind which took place so productively at the 2018 UNSW workshop from which this publication originated.

**The Honourable Justice Chris Maxwell AC, President of the Court
of Appeal, Supreme Court of Victoria**

August 2020

CASES

- ALA15 v Minister for Immigration and Border Protection* [2016] FCAFC 135
Attorney-General (Cth) v The Queen (1957) 95 CLR 23
Attorney-General for South Australia v Raschke [2019] SASCFC 25, 46
Australian Capital Television v Commonwealth (1992) 177 CLR 175
BBH v The Queen (2012) 245 CLR 241, 245, 249, 250
BDS17 v Minister for Immigration and Border Protection [2018] FCA 135
Brandy v Human Rights and Equal Opportunity Commission (1995) 183 CLR 23, 25
Brodie v Singleton Shire Council (2001) 206 CLR 41
Building Construction Employees and Builders Labourers Federation of NSW v Minister for Industrial Relations (1986) 7 NSWLR 24
Burnie Port Authority v General Jones Pty Ltd (1994) 179 CLR 41, 175
Burns v Corbett [2018] HCA 24, 46
Cattanach v Melchior (2003) 215 CLR 41
Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs (1992) 176 CLR 25
CIT17 v Minister for Immigration and Border Protection (2018) 265 FCR 280
Cole v Whitfield (1988) 165 CLR 41, 175
Commonwealth v Tasmania (1983) 158 CLR 175
Davis v Commonwealth (1988) 166 CLR 175
DPP (Cth) v Besim [No 2] (2017) 52 VR 59, 165, 166
Ebner v Official Trustee in Bankruptcy (2000) 205 CLR 135
Gambaro v Mobycom Mobile Pty Ltd [2019] FCAFC 280
Gaudie v Local Court of New South Wales [2013] NSWSC 273, 274
Gilbertson v State of South Australia [1978] AC 24
Gloucester Resources Ltd v Minister for Planning (Gloucester Resources) [2019] NSWLEC 274, 275
Grollo v Palmer (1995) 184 CLR 24, 89
Hilton v Wells (1985) 157 CLR 24
Hinz v Berry [1970] 2 QB 222
HML v The Queen (2008) 235 CLR 241, 242, 244, 245, 246, 248, 249
Huddart Parker and Co Pty Ltd v Moorehead (1908) 8 CLR 24
In re Judiciary and Navigation Acts (1921) 29 CLR 24, 27

TABLE OF CASES

xvii

- International Finance Trust Co Ltd v New South Wales Crime Commission* (2009) 240 CLR 24
- Jacobellis v Ohio*, 378 US 184, 197 (1964) 194
- Jorgensen v Fair Work Ombudsman* (2019) 371 ALR 280
- Kable v Director of Public Prosecutions (NSW)* (1996) 189 CLR 6, 24, 57, 89
- Kirk v Industrial Relations Commission (NSW)* (2010) 239 CLR 24
- Koowarta v Bjelke-Petersen* (1982) 153 CLR 175
- Law Offices of Herssein & Herssein, PA v United Services Automobile Association*, 271 So 3d 889 (Fla Sup Ct, 2018) 284
- Lee v New South Wales Crime Commission* (2013) 251 CLR 241, 250, 253
- Liversidge v Anderson* [1942] AC 201
- Mabo v Queensland [No 2]* (1992) 175 CLR 165, 174, 175
- McFarlane v Tayside Health Board* [2000] 2 AC 41
- Nationwide News Pty Ltd v Wills* (1992) 177 CLR 175
- New South Wales v Commonwealth* (1915) 20 CLR 23
- Nicholas v The Queen* (1998) 193 CLR 25
- Palmer v Ayers* (2017) 259 CLR 25
- Pettit v Dunkley* [1971] 1 NSWLR 212
- Pfennig v The Queen* (1995) 182 CLR 245, 246, 249
- Pintarich v Federal Commissioner of Taxation* (2018) 262 FCR 142
- Queensland v Commonwealth* (1977) 139 CLR 236, 237
- R (on the application of Miller) v Secretary of State for Exiting the European Union* [2018] AC 268
- R (on the application of UNISON) v Lord Chancellor* [2017] UKSC 43
- R v Bevan; Ex parte Elias and Gordon* (1942) 66 CLR 24
- R v Davison* (1954) 90 CLR 25
- R v Deputy Industrial Injuries Commissioner; Ex parte Moore* [1965] 1 QB 33
- R v Gray (Howard Alexander)* [1900] 2 QB 264
- R v Hegarty; Ex parte City of Salisbury* (1981) 147 CLR 25
- R v Joske; Ex parte Shop Distributive and Allied Employees Association* (1976) 135 CLR 24
- R v Kirby; Ex parte Boilermakers Society of Australia* (1956) 94 CLR 6, 23, 57
- R v Mambolo* [2001] 3 SA 286
- R v Trade Practices Tribunal; Ex parte Tasmanian Breweries Pty Ltd* (1970) 123 CLR 25
- Radmacher (formerly Granatino) v Granatino* [2011] 1 AC 270
- Re Dingjan; Ex parte Wagner* (1995) 183 CLR 25
- Re Wakim; Ex parte McNally* (1999) 198 CLR 237, 238
- Richmond Newspapers Incorporated v Virginia* 448 US 555 (1980) 263
- Rowe v Electoral Commissioner* (2010) 243 CLR 239, 241, 254
- South Australia v Totani* (2010) 242 CLR 24
- Southern Pacific Co v Jensen*, 244 US 205, 221 (1917) 43

xviii	TABLE OF CASES
	<i>State of Wisconsin v Loomis</i> , 881 N.W.2d 749 (Wis. 2016) 125
	<i>Thomas v Mowbray</i> (2007) 233 CLR 25
	<i>Trident General Insurance Co Ltd v McNiece Bros Pty Ltd</i> (1988) 165 CLR 175
	<i>United Public Workers of America v Mitchell</i> , 330 US 75 (1947) 27
	<i>Victorian Stevedoring and General Contracting Co Pty Ltd v Dignan</i> (1931) 46 CLR 23
	<i>Vietnam Veterans' Association of Australia (New South Wales Branch Inc) v Gallagher</i> (1994) 52 FCR 116, 135, 142
	<i>Wainohu v New South Wales</i> (2011) 243 CLR 24, 89, 130, 212
	<i>Waterside Workers' Federation of Australia v JW Alexander Ltd</i> (1918) 25 CLR 24, 25
	<i>Wik Peoples v Queensland</i> (1996) 187 CLR 60, 175
	<i>Wilson v Minister for Aboriginal and Torres Strait Islander Affairs</i> (1996) 189 CLR 23, 24, 25
	<i>X7 v Australian Crime Commission</i> (2013) 248 CLR 241, 243, 250, 251, 252, 253, 254