

SYKES and YERBURY

LABOUR LAW

IN AUSTRALIA

Being the Second Edition of Sykes & Glasbeek

VOLUME ONE

INDIVIDUAL ASPECTS

by

E I SYKES



Butterworths

Sykes and Yerbury

LABOUR LAW IN AUSTRALIA

Volume 1

INDIVIDUAL ASPECTS

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PREFACE

When in 1976 the problem of a second edition of Sykes and Glasbeek on Labour Law in Australia was considered, it was taken for granted that the two sections of the work would be published at the same time though not necessarily under the same cover. Unfortunately Professor Glasbeek took up a permanent position in a Canadian University and eventually was obliged to relinquish his part of the project. After some delay Professor D Yerbury of the Australian Graduate School of Management agreed to prepare the material for the second part of the work, viz that dealing with the collective aspects of labour law. Unfortunately her preparation has been delayed and the second part of the work cannot be produced at the moment. It is thought that the part contributed by Professor Sykes should be delayed no longer and it is now being published as a separate volume whilst Professor Yerbury's part will appear as soon as possible. The short title of the work will be "Sykes and Yerbury, *Labour Law in Australia*", with Professor Sykes contributing Volume I on the individual aspects of the Australian system and Professor Yerbury contributing Volume II on the collective aspects.

One of the criticisms relating to the original work by Sykes and Glasbeek which has drifted back to the writer of this Preface concerns the long chapter on workers' compensation. The criticism, which it is believed came from a Western Australian source, was to the effect that the inclusion of the treatment of so many statutory systems made that chapter "unreadable". With all due respect such criticism makes no allowance whatever for practicalities and is basically unrealistic.

There are three possible ways in which to deal with workers' compensation in a work on general labour law:

- (1) Omit the topic altogether. However, although it looks to the question of making good the bad effects of a social evil instead of endeavouring to prevent the occurrence of that evil, it still instances an important legislative trend and constitutes a topic which engages the attention of quite a numerous band of legal practitioners and union officials. Its omission therefore seems undesirable.
- (2) Limit treatment to one of the state statutes, which in terms of practical realities would mean either New South Wales or Victoria. This is in fact what is done in the books published in Australia which deal with workers' compensation as a sole topic. However it would be odd for a work which purports to deal with labour law in general over the whole Australian spectrum suddenly to narrow in compass to one jurisdiction when it comes to workmen's compensation provisions. In any event why should the outlying states and the territories be entirely ignored? Even treatment of, say, two jurisdictions would not answer the problem.
- (3) Encompass all the systems, endeavour to find the common pattern, and then indicate important differences in specific jurisdictions without going too far into the detail surrounding the particular jurisdiction.

This last was the method preferred in the original work and followed in the present production. Obviously there is a common pattern, for instance in the "course of employment" doctrine and the provisions regarding protected journeys. Important departures from the general pattern can then be presented. The danger is that one may be drawn too far into cataloguing the *minutiae* appertaining to one particular system; one may even make minor errors concerning such details and this is possible with respect to a jurisdiction like the Australian Capital Territory where the legislation is difficult to piece together, and to a lesser extent the Northern Territory.

However the author is aware of these traps and has endeavoured to guard against them. The third alternative with all its possible drawbacks seems to be preferable to the other two. The author is somewhat heartened by the fact that when discussing the "unreadable" comment with a colleague, the latter replied in a short phrase which signifies "Nonsense" but is somewhat shorter and is also unprintable.

The other criticism that one has heard is that the original work dealt too much with and relied too much on the "control" test in relation to the question of the nature of the employer-employee relationship. It did indeed deal with it in some detail but not entirely uncritically. It has become standard practice in recent years for writers to attack the control test but this is a fate to be expected of any common law doctrine which has stood for a long time. Age is no guarantee of sanctity. However the fact that the doctrine has been observed, at least nominally, by the courts for a long time does not mean that it necessarily lacks all virtues. An assessment of its virtues and defects and its general standing now and in the foreseeable future is therefore attempted at greater depth in the present work than in the original book. It seems that this is worthwhile if only by reason of the general non-viability of the alternative tests which have been proposed. Thus, take the most attractive-looking of these, viz, that the question is whether the person alleged to be an employee is part of the organizational structure of the undertaking. If a large company engaged a firm of solicitors on a yearly retainer basis but the firm remained free to accept legal work for third parties, it is probable that the solicitors would be "part of the organization" especially if their offices were in the same building, but would the partners be employees of the company for workers' compensation or vicarious liability purposes? It is the occurrence of this kind of shortcoming in alternative characterizations which seems to tend to make courts veer back to the superficially firmer ground of the older test.

The author wishes to confess to one error. In paragraphs [1402] and [1403] of Chapter 14 he appears to have made contradictory statements regarding under-21 student dependants in Western Australia. The position is that since the amending Act of 1970 such children are not only included but given a distinct entitlement: see [1409]

With regard to the abbreviations in respect of workers' compensation statutes, those who are curious as to the abbreviation "CAGA" applied to the Commonwealth Act relating to federal public service employees, are informed that this represented the significant letters in the title of the Act when Mr Whitlam was Prime Minister and as it sounds much more euphonious than anything that can be constructed from the present title of the Act, it has been retained.

February 1980

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 Cumberland v Lanarkshire Tramways Co [1927] SC 407 **1445, 1446, 1449**
 Cummings (or McWilliams) v Sir William Arrol and Co Ltd [1962] 1 WLR 295; [1962] 1 All ER 623 **1206, 1211**
 Cutler v Wandsworth Stadium Ltd (in liq) [1949] AC 398; [1949] 1 All ER 544 **1208, 1530**
 Cutter v Powell (1795) 6 Rep 320; 101 ER 573; [1775-1802] All ER Rep 159 **609, 612**
 Cutts v Illawarra Meat Co Pty Ltd [1968] 3 NSW 611 **1444**
 D C Thomson and Co Ltd v Deakin [1952] Ch 646; [1952] 2 All ER 361 **1511, 1512, 1514, 1515, 1531, 1539**
 D G Moncrieff (Farmers) v MacDonald [1978] IRLR 112 **603**

References are to paragraphs

TABLE OF CASES

- D'Angola v Rio Pioneer Gravel Co Pty Ltd (unreported 1977) 1450
 Da Costa v Cockburn Salvage and Trading Pty Ltd (1970) 44 ALJR 455 1206
 Daily Mirror Ltd v Gardner [1968] 2 QB 762; [1968] 2 All ER 163 1530
 Dairy Farmers Co-operative Milk Co v Parker [1966] 2 NSW 551 1451
 Daniels v Whetstone Entertainments [1962] 2 Lloyd's Rep 1202
 Danvers v Commr for Railways (NSW) (1969) 122 CLR 529; [1970] ALR 403 1342
 Darling Island Stevedoring and Lighterage Co Ltd v Hankinson (1967) 117 CLR 19; [1967] ALR 545 1360, 1363
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 Davey v Union SS Co of New Zealand [1953] SASR 35 1333
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 —v Mould (1944) 69 CLR 96 1329
 Davie v New Merton Board Mills Ltd [1959] AC 604; [1959] 1 All ER 346 1204, 1206
 Davies v Adelaide Chemical and Fertilizer Co Ltd (1946) 74 CLR 541 1213
 —v Davies (1887) 36 Ch D 359 802
 Davis v Arundell College [1977] ICR 6 109
 —v Atkins [1977] 3 WLR 214 603
 —v Carew-Pole [1956] 1 WLR 833; [1956] 2 All ER 524 903
 —v Commonwealth (1968) 13 FLR 312 1321
 —v Pioneer Concrete Pty Ltd [1976] 1 NSWLR 562 1306
 Dawkins v Metropolitan Coal Co Ltd (1947) 75 CLR 169 1363
 Day v Standard Waygood Ltd (1941) 65 CLR 204 1344
 Dayman v Gleader [1939] SASR 277 117
 De Francesco v Barnum (1890) 45 Ch D 430; [1886-90] All ER Rep 414 204
 De Haan, Re [1969] WAR 161 1406
 De Stempel v Dunkels [1938] 1 All ER 238 303
 Deatons Pty Ltd v Flow (1949) 79 CLR 370 1202
 Dedman v British Building etc Ltd [1974] 1 WLR 171; [1974] 1 All ER 520 307
 Dennis v White [1917] AC 479 1320, 1365
 Department of the Attorney-General v Kelly [1960] NSW 154 1330
 Devine v Devine and Queensland Insurance Co Ltd (1928) 28 SR (NSW) 503 1459
 Devonald v Rosser & Sons Pty Ltd [1906] 2 KB 728 518
 Dey v Victorian Railway Commissioners (1949) 78 CLR 62 1409, 1444
 Deyong v Shenburn [1946] KB 227; [1946] 1 All ER 226 1204
 Di Biccarrri v Herring [1960] WCR (NSW) 27 1359
 Dickson v Pharmaceutical Soc of Great Britain [1970] AC 403 904
 Dillingham Engineering Pty Ltd v National Employers Mutual General Insurance Assoc [1971] 1 NSWLR 578 1351
 Dillon v Fremantle Harbour Trust Commissioners (1936) 38 WALR 97 1439
 —v Gange (1941) 64 CLR 253 118
 Dodd v Executive Air Services Ltd [1975] VR 148 1350
 Donlan v Commonwealth (1953) 54 SR (NSW) 67 1445
 Donoghue (or McAlister) v Stevenson [1932] AC 562; [1932] All ER Rep 1 1204
 Donovan v Laing Wharton and Down Construction Syndicate [1893] 1 QB 629; [1891-4] All ER Rep 216 117, 1314
 Dossi, Re; Ex parte The Official Assignee (1905) 5 SR (NSW) 204 1006
 Doudie v Kinneil Cannel and Coking Coal Ltd [1947] AC 377 1345
 Dover Navigation Ltd v Isabella Craig [1940] AC 190; [1939] 4 All ER 558 1320, 1356
 Dowell Australia Ltd v Archdeacon (1975) 6 ALR 345 1427
 Down v Pinto (1854) 9 Exch 327; 156 ER 139 303
 Doyle v White City Stadium Ltd [1935] 1 KB 110 204
 Drummond v Drummond [1960] VR 462 1330

References are to paragraphs

- Drury v Drury [1961] SR (NSW) 894 1307
 —v Dulhunty (1921) 21 SR (NSW) 514 607, 608
 Duffield, R v (1851) 5 Cox CC 404 1504
 Duic v Dillingham Corporation of New Guinea Pty Ltd [1972] 2 NSWLR 266 1351
 Dunk v George Waller & Sons Ltd [1970] 2 QB 163; [1970] 2 All ER 630 614
 Dunleavy v Grimley [1912] AR (NSW) 45 516
 Dunlop Pneumatic Tyre Co Ltd v New Garage & Motor Co Ltd [1915] AC 79; [1914-15] All ER Rep 739 605
 Dunlop Rubber Aust Ltd v Gard [1948] AR (NSW) 611
 Dunn v Johnson and Queensland Insurance Co Ltd [1968] WAR 193 1459
 Dunstone v Ferrari [1926] VLR 155 1401, 1404
 Duyvelshaff v Cathcart and Ritchie Ltd (1973) 47 ALJR 410; 1 ALR 125 1206, 1208
 —v Cathcart and Ritchie Ltd [1973] Qd R 11 1211
 Dyer v Munday [1895] 2 QB 742 1202
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- Eastern and Australian Steamship Co Ltd, Ex parte; R v Forster (1959) 103 CLR 256 1348, 1349
- Eastham v Newcastle Football Club Ltd [1964] Ch 413; [1963] 3 All ER 139 904
 Edwards v Commonwealth (1976) 50 ALJR 438 1455
 —v Dowsett (1914) 20 ALR (CN) 17 306
 —v Lamson Paragon Ltd [1968] VR 374 1361
 —v Mainline Constructions Pty Ltd [1975] 1 NSWLR 90 1315
 Egg Stores (Stamford Hill) Ltd v Leibovici [1977] ICR 260 406, 407
 Ehrman v Bartholomew [1898] 1 Ch 671; [1895-9] All ER Rep Ext 1680 606
 Electric Power Transmission Pty Ltd v D'Urso (1970) 124 CLR 338 1427
 Electricity Comms, R v; Ex parte London Electricity Joint Committee [1924] 1 KB 171 302
 Elford v Buckley (1969) 90 WN (Pt 1) (NSW) 756 901
 Elliott v Liggins [1902] 2 KB 84 516
 Emerald Construction Co Ltd v Lowthian [1966] 1 WLR 691; [1966] 1 All ER 1013 1509, 1514, 1515
 Empire Meat Co Ltd v Patrick [1939] 2 All ER 85 807
 Employer's Mutual Indemnity Assoc Ltd v K B Hutcherson Pty Ltd [1976] 1 NSWLR 103 1315
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 English v Comcalco Products Ltd [1972] Qd R 52 1209
 Entwisle v Balough [1969] VR 471 1452, 1453
 Es-me Pty Ltd v Parker [1972] WAR 52 511
 Esso Petroleum Co Ltd v Harper's Garage (Stourport) Ltd [1968] AC 269; [1967] 1 All ER 699 803, 804, 808
 Evans v Manco Ltd (1977) 16 ACTR 11 1333
- F G Gardner Ltd v Beresford [1978] IRLR 63 522
 FC of T v J Walter Thompson (Aust) Pty Ltd (1944) 69 CLR 227 101, 102, 107, 110, 114
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 Farmer v Griffiths (1940) 63 CLR 603 1445, 1449, 1454
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 Favelle Mort Ltd v Murray (1976) 50 ALJR 509; 8 ALR 649 1360, 1365
 Federal Broom Pty Ltd v Semlitch (1964) 110 CLR 626; [1964] ALR 1031 1360
 Federal Supply & Cold Storage Co v Angehrn and Piel (1910) 103 LT 150 602
 Federated Ironworkers Assoc and John Lysaght (Aust) Ltd, Re [1972] AILR 672 902

References are to paragraphs

TABLE OF CASES

- Fenn v Sagar (1955) 57 WALR 12 **118**
- Fenton v J Thorley and Co Ltd [1903] AC 443 **1318, 1357**
- Ferguson v George Foster and Sons Pty Ltd (1969) 14 FLR 370 **711, 714**
 —v John Dawson and Partners (Contractor) Ltd [1976] 1 WLR 1213 **109**
- Fillipone v Abel Drainers Pty Ltd (1969) 14 FLR 456 **1333**
- Finlay v Westfield Development Corporation Ltd [1972] 1 NSWLR 422 **1458**
- Fisher v Dick and Co Ltd [1938] 4 All ER 467 **303**
- Fitch v Dewes [1921] 2 AC 158; [1921] All ER Rep 13 **804, 806, 807**
- Fitzgerald v W G Clarke and Son [1908] 2 KB 796 **1320**
- Fitzpatrick v Bankstown Municipality [1954] AR (NSW) 573 **623**
- Flematti v Utah Construction and Engineering Co Pty Ltd (1964) 82 WN (Pt 1) (NSW) 236 **1212**
- Flett v Deniliquin Publishing Co Ltd [1964-5] NSWLR 383 **610**
- Flight Crew Officers' Industrial Tribunal, R v; Ex parte Australian Fed of Air Pilots (1971) 127 CLR 11 **307, 617**
- Floreani Bros Pty Ltd v Woollscourers (SA) Pty Ltd (1976) 13 SASR 313 **1346, 1413**
- Foister v Insurance Commr [1939] QWN 4 **1304**
- Food Preservers Award, Re (1973) 147 CAR 611 **1412**
- Ford v Department of Agriculture [1974] WCR (NSW) 179 **1340**
 —v Forestry Commission [1962] NSWLR 45 **1342**
- Ford Motor Co Ltd v Amalgamated Union of Engineering and Foundry Workers [1969] 1 WLR 339; [1969] 2 All ER 481 **003**
- Forrest v John Mills Himself Pty Ltd (1970) 44 ALJR 274; [1970] ALR 911 **1209, 1212**
- Forster, R v; Ex parte Eastern and Australian Steamship Co Ltd (1959) 103 CLR 256 **1348, 1349**
- Foster v A T Brine and Sons Pty Ltd [1972] WAR 157 **1450**
 —v Wharnccliffe Woodmoor Colliery [1922] 2 KB 701 **1426**
- Foster Clark Ltd's Indenture Trusts, Re [1966] 1 All ER 43; [1966] 1 WLR 125 **408B**
- Foufoulas v F C Strang Pty Ltd (1970) 44 ALJR 361 **1206**
- Fournaris v British Motor Corporation Ltd [1964] NSWLR 555 **1427**
- Fowler v Commercial Timber Co Ltd [1930] 2 KB 1; [1930] All ER Rep 224 **411**
 —v Kibble [1922] 1 Ch 487 **1545**
- Fox v Dalby (1874) LR 10 CP 285 **119**
- Fraher v Wunderlich Ltd (1963) 110 CLR 466; [1964] ALR 497 **1433**
- Frauenfelder v Reid (1963) 109 CLR 42; [1963] ALR 493 **1315**
- Fremantle Harbour Trust v Stam (1934) 36 WALR 93 **1439**
- Frith v Louisianian (Owners) [1912] 2 KB 155 **1343**
- Frizzel v Commonwealth (1970) 92 WN (NSW) 507 **1342**
- Frost v Mark Foys Ltd (1951) 52 SR (NSW) 95 **1413**
- Furneaux v Sydney County Council (1956) 73 WN (NSW) 667 **1427**
- G J Coles and Co Ltd v Waltham (1976) 15 ACTR 1 **1404, 1406**
- Gaede v Central Automatic Sprinklers Pty Ltd [1963] VR 631 **1444, 1445**
- Gallagher, R v; Ex parte Aberdare Collieries Pty Ltd (1963) 37 ALJR 40; [1963] ALR 641 **503, 618**
- Gamble v Brown's Constructional Enterprises Pty Ltd [1962] Tas SR 368 **1365, 1429**
- Gaming Board of Great Britain; Ex parte Benaim and Khaida, R v [1970] 2 QB 417; [1970] 2 All ER 528 **904**
- Gammage v Metropolitan Meat Industry Commissioner (1948) 48 SR (NSW) 99 **1434**
- Gandell v Pontigny (1816) 4 Camp 375; 171 ER 119 **613**
- Garner v Burns Philp and Co Ltd (1949) 49 SR (NSW) 270 **1344**
- Garret v Taylor (1620) Cro Jac 567; 79 ER 153 **1517**
- Gaumont-British Picture Corporation v Alexander [1936] 2 All ER 1686 **808**
- Geddes v Joice [1952] WCR (NSW) 51 **106**
- General Motors-Holden Pty Ltd v Bowling (1976) 12 ALR 685 **709, 711, 712**

References are to paragraphs

- General Stock Rolling Co, Re (1866) LR 1 Eq 346 411
- George v Davies [1911] 2 KB 445; [1911-13] All ER Rep 644 304, 305
- v Glasgow Coal Co Ltd [1909] AC 123 1343
- George Wimpey and Co Ltd v Cooper [1977] IRLR 205 521
- Georgeson v Metropolitan Transport Trust [1958] Tas SR 70 1453
- Gibson v Lawson [1891] 2 QB 545 1504, 1545
- Gietzelt v Craig-Williams (No 1) (1959) 1 FLR 182 710
- Gil (as administratrix Estate Gil) v T & G Fire and General Insurance Co Ltd (1976) 26 FLR 194 1461
- Gilford Motor Co Ltd v Horne [1933] Ch 935; [1933] All ER Rep 109 806
- Gillespie v Alperstein [1964] VR 749 1453
- Glasgow Coal Co Ltd v Welsh [1916] 2 AC 1 1356
- Global Plant Ltd v Secretary of State for Health and Social Security [1972] 1 QB 139; [1971] 3 All ER 385 112, 114, 115
- Godfrey v Woolworths Ltd [1974] WCR (NSW) 93 1332
- Gold v Essex County Council [1942] 2 KB 293; [1942] 2 All ER 237 116
- Goldsoll v Goldman [1915] 1 Ch 292; [1914-15] All ER Rep 257 812
- Goodinson v Goodinson [1954] 2 KB 118; [1954] 2 All ER 255 810, 811, 813
- Goodman v Pocock (1850) 15 QB 576; 117 ER 577 613, 614
- Gould and Porter Pty Ltd v Cleveland (1961) 107 CLR 129; [1962] ALR 9 1433
- Gorris v Scott (1874) LR 9 Exch 125 1208
- Gough v Insurance Commr [1939] QWN 18 1309
- Gough, R v; Ex parte Cairns Meat Export Co Pty Ltd (1963) 108 CLR 343; [1963] ALR 651 617
- ; Ex parte Meat and Allied Trades Fed (1970) 122 CLR 237; [1970] ALR 343 619
- Government Printer v Reeves (unreported 1977) 1323
- Goward v Commonwealth (1957) 97 CLR 355 1342
- Graham v Bentley (1959) 76 WN (NSW) 603 102, 106, 109, 110, 115
- Grayndler v Brown (1928) 27 SR (NSW) 46 710
- v Colgate-Palmolive-Peet Co Ltd [1937] AR (NSW) 139 714
- v Colgate-Palmolive-Peet Co Ltd (No 2) [1937] AR (NSW) 525 710
- v Cunich (1939) 62 CLR 573 710
- Great Boulder Gold Mines Ltd v Gossage [1970] WAR 161 1403
- Greater Wollongong City Council v Dunn [1973] 1 NSWLR 627
- Greenleaf Fertilisers, Re (unreported 1968) 513
- Grolier Soc of Aust Ltd v Keir [1965] AR (NSW) 65 109
- Groves v Lord Wimborne [1898] 2 QB 402; [1895-9] All ER Rep 147 1101, 1208
- Grundy v Sun Printing & Publishing Assoc (1916) 33 TLR 77 306
- Guinan v Commr for Railways [1949] WCR (NSW) 135 1342
- HK, Re [1967] 2 QB 617; [1967] 1 All ER 226 302, 405
- Hacking v Martin Enterprises Pty Ltd [1964] WCR (NSW) 68 1432
- Hadfields Steel Works Ltd v Meyer (1962) 108 CLR 171; [1963] ALR 761 1446, 1452, 1453
- Hadley v Baxendale (1854) 9 Exch 341; 156 ER 145; [1843-60] All ER Rep 461 605
- Hall v Carr [1921] QWN 6 516
- v Yellow Cabs of Aust Pty Ltd [1970] 3 NSWLR 240 1309, 1322
- Hallett Brick Industries Ltd v Kenniwell (unreported 1976) 625
- Hamilton v Cole [1972] 1 NSWLR 349 1427
- v Nuroof (WA) Pty Ltd (1956) 96 CLR 18 1205
- Hands v Simpson Fawcett & Co (1928) 44 TLR 29 602
- Hansen v Totalizator Agency Board [1965] VR 721 1451
- Harbon v Geddes (1935) 53 CLR 33 1443, 1444, 1445
- Harding v Harding (1928) 29 SR (NSW) 96 614
- Harmer v Cornelius (1958) 5 CB (NS) 236; 141 ER 94; [1843-60] All ER Rep 624 602

References are to paragraphs

TABLE OF CASES

- Harnmey v Board of Fire Commissioners [1926-27] WCR (NSW) 247 1369
Harris v Associated Portland Cement Manufacturers Pty Ltd [1939] AC 71; [1938] 4 All ER 831 1324
—v Foote's Bus Service Ltd (1963) 30 SAIR 259 609, 611, 612
—v Metropolitan Water Sewerage and Drainage Board (1940) 57 WN (NSW) 42 1444
Harry M Miller Attractions Pty Ltd v Actors and Announcers Equity Assoc of Aust [1970] 1 NSW 614 1532, 1542, 1544
Hart v A R Marshall & Sons (Bulwell) Ltd [1977] ICR 539 407
Hartland v General Exchange Bank Ltd (1866) 14 LT 863 614
Hartley v Bilby (1892) 4 QLJ 137 1533
—v Harman (1840) 11 Ad & El 798; 113 ER 617 307
Harvey v R G O'Dell Ltd [1958] 2 QB 78; [1958] 1 All ER 657 504
—v Tivoli Manchester Ltd (1907) 23 TLR 592 409
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Havard v Illawarra Meat Co Ltd (1956) 73 WN (NSW) 334 1330
Hawkes Bros v Slater [1972] VR 335 1451
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Helmers v Coppins (1961) 106 CLR 156; [1962] ALR 359 1350
Helmore v Smith (No 2) (1886) 35 Ch D 449 510
Henderson v Commr for Railways (WA) (1937) 58 CLR 281 1322, 1324, 1342
Hepworth Manufacturing Co Ltd v Ryott [1920] 1 Ch 1; [1918-19] All ER Rep 1019 802, 805
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—v Samuel Fox Ltd [1916] 1 AC 405 1324
Herbert Clayton & Jack Waller Ltd v Oliver [1930] AC 209; [1930] All ER Rep 414 518
Herbert Morris Ltd v Saxelby [1916] 1 AC 688; [1916-17] All ER Rep 305 511, 804, 805, 806, 807, 812
Herdt v Chrysler Aust Ltd (1976) 13 ALR 365 710
Hetherington v Amalgamated Collieries of WA Ltd (1939) 62 CLR 317 1357, 1359
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—v North Coast Theatres and Drive-ins Pty Ltd [1974] 1 NSWLR 9 1306
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—v C A Parsons & Co Ltd [1972] Ch 305; [1971] 3 All ER 1345 306, 403, 615, 901
Hillyer v Governors of St Bartholomews Hospital [1909] 2 KB 820 116
Hislop v Insurance Commr [1941] QWN 19 1336
Hitchins v Insurance Commr [1941] QWN 20 1438
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—v Tumut Shire Council (1954) 54 SR (NSW) 284 302
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—v W H Lober & Co [1961] NSW 575 1444
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Horwood v Millar's Timber and Trading Co Ltd [1917] 1 KB 305; [1916-17] All ER Rep 847 802

References are to paragraphs

- Hotel Kingston Pty Ltd v Manolis (1977) 15 ACTR 25 1336
 Howard F Hudson Pty Ltd v Ronayne [1972] ALR 357; (1972) 46 ALJR 172; 126 CLR 449 808
 Howell v Cockings Ltd [1956] SASR 134 1404
 —v Noojee Sawmilling & Logging Co [1974] VR 243 112
 Howells v Powell Duffryn Steam Coal Co [1926] 1 KB 472 1322
 Hubbard v Pitt [1976] QB 142; [1975] 1 All ER 1056 1546
 Huckle v London County Council (1910) 27 TLR 112 1443
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 —v Ridge Manufacturing Co [1957] 2 QB 348; [1957] 2 All ER 229 1203
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 Hunt v Broome [1973] QB 691; [1973] 2 All ER (CA); [1974] AC 587; [1974] 2 All ER 314 1546
 —v Railway Commrs for NSW (1928) 27 AR (NSW) 151 710
 Hunter v Chasemore [1959] VR 433 1310
 Huntley v Thornton [1957] 1 WLR 321; [1957] 1 All ER 234 1506, 1509
 Hutton v Dorman Long and Co Ltd (1932) 32 SR (NSW) 321 1431
 Imperial Chemical Industries Ltd v Shatwell [1965] AC 656; [1964] 2 All ER 999 1208, 1214
 Industrial Court of SA. R v; Ex parte General Motors-Holden Pty Ltd (1975) 10 SASR 582 624, 625
 Industrial Injuries Commr, R v; Ex parte Amalgamated Engineering Union (No 2) [1966] 2 QB 31; [1966] 1 All ER 97 1322
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 Initial Services Ltd v Putterill [1968] 1 QB 396; [1967] 3 All ER 145 508
 Innes v Kynoch [1919] AC 765 1356
 J & H Timbers Pty Ltd v Nelson (1972) 126 CLR 625; [1972] ALR 331 1426, 1427
 J Kitchen and Sons Pty Ltd v Stewart's Cash and Carry Stores (1942) 66 CLR 116 807
 J Lyons and Sons v Wilkins [1896] 1 Ch 811; [1899] 1 Ch 255 1505, 1545
 J Murray More (NSW) Pty Ltd v Public Transport Commission [1974] 1 NSWLR 412 1450
 J Scott Pty Ltd v Stapp [1960] AR (NSW) 300 109
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 —v Hayes Candy and Co Ltd [1938] 4 All ER 587 303
 James v Insurance Commr [1938] QWN 43 1347
 James Patrick and Co Pty Ltd v Sharpe [1955] AC 1; [1954] 3 All ER 216 1357, 1358
 James S Adams and Co Pty Ltd v State Rivers and Water Supply Commission [1960] VR 542 1450, 1451
 Jenkin v Paringa Mining and Exploration Co Ltd [1972] WAR 89 1403
 Jenkinson v Nield (1892) 8 TLR 540 1505
 Jetair Aust Ltd Air Pilots Agreement, Re (1970) 136 CAR 967 902
 Johansen v McKinley [1968] WAR 17 1453

References are to paragraphs