

**NYGH'S
CONFLICT OF LAWS
IN AUSTRALIA
EIGHTH EDITION**

M DAVIES • A S BELL • P L G BRERETON



LexisNexis
Australia

Nygh's Conflict of Laws in Australia

Eighth Edition



	LexisNexis
AUSTRALIA	LexisNexis Butterworths 475–495 Victoria Avenue, CHATSWOOD NSW 2067 On the internet at: www.lexisnexis.com.au
ARGENTINA	LexisNexis Argentina, BUENOS AIRES
AUSTRIA	LexisNexis Verlag ARD Orac GmbH & Co KG, VIENNA
BRAZIL	LexisNexis Latin America, SAO PAULO
CANADA	LexisNexis Canada, Markham, ONTARIO
CHILE	LexisNexis Chile, SANTIAGO
CHINA	LexisNexis China, BEIJING, SHANGHAI
CZECH REPUBLIC	Nakladatelství Orac sro, PRAGUE
FRANCE	LexisNexis SA, PARIS
GERMANY	LexisNexis Germany, FRANKFURT
HONG KONG	LexisNexis Hong Kong, HONG KONG
HUNGARY	HVG-Orac, BUDAPEST
INDIA	LexisNexis, NEW DELHI
ITALY	Dott A Giuffrè Editore SpA, MILAN
JAPAN	LexisNexis Japan KK, TOKYO
KOREA	LexisNexis, SEOUL
MALAYSIA	Malayan Law Journal Sdn Bhd, SELANGOR DURAL EHSAN
NEW ZEALAND	LexisNexis, WELLINGTON
POLAND	Wydawnictwo Prawnicze LexisNexis, WARSAW
SINGAPORE	LexisNexis, SINGAPORE
SOUTH AFRICA	LexisNexis Butterworths, DURBAN
SWITZERLAND	Staempfli Verlag AG, BERNE
TAIWAN	LexisNexis, TAIWAN
UNITED KINGDOM	LexisNexis UK, LONDON, EDINBURGH
USA	LexisNexis Group, New York, NEW YORK LexisNexis, Miamisburg, OHIO

National Library of Australia Cataloguing-in-Publication entry

Author:	Davies, Martin, 1957–.
Title:	Nygh's conflict of laws in Australia.
Edition:	8th edition.
ISBN:	9780409325812 (hbk). 9780409325805 (pbk).
Notes:	Includes index.
Subjects:	Conflict of laws — Australia.
Other Authors/Contributors:	Bell, Andrew S; Brereton, Paul.
Dewey Number:	342.94042

© 2010 Reed International Books Australia Pty Limited trading as LexisNexis

Reprinted 2010.

7th edition 2002, reprinted 2008.

This book is copyright. Except as permitted under the Copyright Act 1968 (Cth), no part of this publication may be reproduced by any process, electronic or otherwise, without the specific written permission of the copyright owner. Neither may information be stored electronically in any form whatsoever without such permission.

Inquiries should be addressed to the publishers.

Typeset in Plantin and GillSans.

Printed in Australia by Ligare Pty Ltd (NSW).

Visit LexisNexis Butterworths at www.lexisnexis.com.au

Preface

This is the first edition of Peter Nygh's book to be published since his untimely death in 2002, the year the seventh edition was published. Peter's co-author on the seventh edition, Martin Davies, is now joined by two new co-authors, Andrew Bell SC of the New South Wales Bar and Justice Paul Brereton of the Supreme Court of New South Wales.

Peter Nygh had a distinguished career as an academic and as a judge. As befits the leading Australian private international lawyer of his generation, his life and career had a distinctly international flavour. He was born in Germany, received his primary and secondary education in the Netherlands, his tertiary education in Australia, at the University of Sydney Law School, and his postgraduate education in the United States, at the University of Michigan. His career as an academic began at the University of Tasmania and continued at the University of Sydney, where he was first made Professor, and Macquarie University, where he was a Professor and Founding Head of the Law School. He also taught for a year at the University of Köln in Germany. He was then appointed as a Judge of the Family Court of Australia and later to the Appeal Division of that court. He served on the court for 14 years. During that time he was awarded the degree of Doctor of Laws by the University of Sydney, principally in recognition of the contribution to learning made by earlier editions of this book, the first six of which he wrote alone. After retiring from the court, Peter served as Principal Member of the Refugee Review Tribunal and Visiting Professor at Bond University and the University of New South Wales.

Peter was associated with the Hague Conference on Private International Law for over 25 years, beginning with his membership of Australia's first delegation in 1975. He helped to draft the Convention on the Celebration and Recognition of the Validity of Marriages and the Convention on the Law Applicable to Matrimonial Property Regimes, and he represented Australia in the negotiations that led to the Convention on the Protection of Children. He was one of two *rapporteurs* for the Hague Conference's arduous efforts to produce an international convention on recognition and enforcement of judgments. He was honoured by the Australian Government for his outstanding contribution to private international law, and in particular his representation of Australia at the Hague Conference, by the award of a Centenary Medal in 2001 and the Order of Australia in 2002.

A *Festschrift* was planned to honour Peter on his 70th birthday, which would have been in March 2003. Regrettably, it was eventually published in 2004 as a *Gedächtnisschrift*. It featured contributions from 30 scholars in 15 different countries, a fitting tribute to the breadth of Peter's international reputation. The essays covered many different areas, reflecting Peter's wide range of interests and expertise. (See *Intercontinental Cooperation Through Private International Law: Essays in Memory of Peter E. Nygh*, Einhorn and Siehr (eds), TMC Asser Press, The Hague, 2004.) Peter took a particular interest in issues at the intersection of his two main areas of

specialisation — family law and private international law — such as the challenges posed by the differing attitudes of systems of law to social changes such as same-sex marriage and civil unions, and assisted reproductive techniques.

The co-authors of this, the eighth edition, are keenly aware of the weight of the responsibility of continuing Peter Nygh's legacy in this book. We have extensively reorganised and restructured the book in a way that we hope respects Peter's seminal contribution while also expanding and updating the material covered. There are new chapters entitled 'Interlocutory Relief' (Chapter 4), 'Evidence from and for Other Countries' (Chapter 11) and 'Restitutionary Claims and Equitable Obligations' (Chapter 21), each of which contains much-expanded treatment of material covered in previous editions or, in some cases, wholly new material. The chapter formerly called 'The Inappropriate Forum' has been split into three new chapters entitled 'Forum Selection and Arbitration Agreements' (Chapter 7), 'Restraint of Local Proceedings: Clearly Inappropriate Forum' (Chapter 8) and 'Restraint of Foreign Proceedings: Anti-Suit Injunctions, (Chapter 9), with significantly expanded coverage. The chapter formerly entitled 'Arbitration' has been split among Chapter 7 (which deals concurrently with forum selection and arbitration agreements), Chapter 39 on 'Choice of Law in Arbitration' (which now includes a section on sporting arbitrations) and Chapter 43 entitled 'Enforcement of Foreign Arbitral Awards', again with significant expansion of coverage. Bankruptcy and corporate insolvency are now treated in a single chapter (Chapter 36) reflecting the scope and sphere of operation of the *Cross-Border Insolvency Act 2008* (Cth) in both areas.

Martin Davies and Andrew Bell jointly revised Chapter 3 entitled 'Jurisdiction in Personam'. The lack of uniformity both as between the states and as between the State Supreme Courts and the Federal Court in relation to extended jurisdiction and service upon individuals and corporations resident or present abroad continues to be an undesirable feature of practice in this area, and is ripe for co-ordinated reform by the rules committees of the several superior courts of the country.

Martin Davies is responsible for Chapters 1, 4, 5, 8, 11, 12, 13, 15, 16, 20, 22, 23, 32, 33, 34, 38, 40 and 42. Andrew Bell is responsible for Chapters 2, 6, 7, 9, 10, 14, 17, 18, 19, 21, 35, 36, 37, 39, 41 and 43. Chapters 7 and 9 draw upon the structure and some of the content of Andrew Bell's earlier work, *Forum Shopping and Venue in Transnational Litigation* (OUP, 2003). Paul Brereton revised the whole of the section on Family Law: Chapters 24–31. All three authors take formal responsibility for the chapters in that section. Martin Davies and Andrew Bell (and, of course, Peter Nygh) are formally responsible for the balance of the chapters.

There have been many developments in the areas covered by this book in the seven years since the previous edition. The new edition considers, among many other things, the decisions of the High Court of Australia in *Regie Nationale des Usines Renault SA v Zhang* (2002) 210 CLR 491; 187 ALR 1, confirming the application of the *lex loci delicti* choice of law rule to transnational torts; *Dow Jones & Co Inc v Gutnick* (2002) 210 CLR 575; 194 ALR 433, considering jurisdiction over alleged defamation on the Internet; *Neilson v Overseas Projects Corporation of Victoria Ltd* (2005) 223 CLR 331; 221 ALR 213, confirming the application of some form of *renvoi* in torts cases; and *Puttick v Tenon Ltd* (2008) 238 CLR 265; 250 ALR 482,

reaffirming the court's adherence to the 'clearly inappropriate forum' test for granting a stay of proceedings. It also considers important decisions of the Full Court of the Federal Court of Australia such as *Comandate Marine Corp v Pan Australia Shipping Pty Ltd* (2006) 157 FCR 45 on the operation of arbitration agreements in relation to claims under the *Trade Practices Act 1974* (Cth) and the nature and scope of the Admiralty jurisdiction *in rem*; and *Petrotimor Companhia de Petroleos SARL v Commonwealth of Australia* (2003) 126 FCR 354, dealing with non-justiciability on grounds of sovereign authority. These are just examples: there have been many other developments in state and territory courts since the previous edition as the practical importance of the subject, and volume of case law, continues to grow in an ever more interdependent, instantaneous and mobile world.

As well as common law developments, the new edition contains consideration of the Cross-Border Insolvency Act 2008 (Cth), implementing the UNCITRAL Model Law on Cross-Border Insolvency; the extensive revision by most states and territories of their civil procedure rules; and imminent legislative developments as reflected in the Trans-Tasman Proceedings Bill 2009 (Cth), the Personal Property Securities Bill 2009 (Cth), the adoption of the Hague Service Convention and the ongoing review and possible reform of the *International Arbitration Act 1974* (Cth). It has not been possible to integrate into the text much discussion of the detailed reforms which will be introduced by the Trans-Tasman Proceedings Bill, in particular. When enacted, this legislation will make provision for the service of Australian initiating process in New Zealand; modify the common law test for stays of proceedings in circumstances where a New Zealand court is the more appropriate forum; permit Australian courts to grant interim relief in support of a New Zealand proceeding; create an obligation to comply with New Zealand subpoenas in Australia; lay down the procedure for the issuing of Australian subpoenas to persons in New Zealand; and facilitate 'remote' appearances in New Zealand proceedings. The Act will also introduce significant changes in relation to the recognition and enforcement in Australia of specified judgments of New Zealand courts and tribunals including non-money judgments. The Act also contains provisions in respect of Trans-Tasman market proceedings and evidence of certain New Zealand matters including matters of New Zealand law by way of consolidation of existing legislation. Reciprocal legislation will be enacted in New Zealand, further integrating the legal systems of both countries.

Although there have been significant legislative developments of the kind just mentioned, Australian conflict of laws is still largely driven by the common law. To that extent, it is increasingly divergent from its parent in the United Kingdom, where the principles governing the traditional conflict of laws areas of jurisdiction, choice of law and enforcement are all now heavily influenced by the instruments designed to shape the processes of dispute resolution within the European Union. The great English conflicts texts such as *Dicey, Morris & Collins on the Conflict of Laws*, 14th ed, Thomson Sweet & Maxwell, London, 2006 and Cheshire, North and Fawcett, *Private International Law*, 14th ed, Oxford University Press, Oxford, 2008 are of ever-decreasing utility for Australian lawyers as they understandably focus on the relationship between the United Kingdom and its European neighbours rather than on the traditional common law conflict of laws.

Andrew Bell acknowledges the very valuable assistance of his secretary, Judi Sheridan, in deciphering hieroglyphics of the most obscure and intricate kind, and the forbearance of his family in enduring his constant state of over-commitment. He also warmly acknowledges his very great academic debt to Professor Adrian Briggs who is now surely the pre-eminent conflict of laws academic in the common law world, always hungry for fresh insights and expert in their elucidation. Adrian Briggs and Mary Keyes also gave invaluable assistance to Martin Davies as he grappled with the revision of the chapter on *renvoi*. Martin Davies and Andrew Bell also thank Tracy Brennan and Catherine Fitch of the Commonwealth Attorney-General's Department for keeping them informed in relation to the progress of various Commonwealth legislative initiatives. Paul Brereton would particularly like to thank three tipstaves; Anna Coffey, Joseph Johnson and Charles Alexander, who gave him considerable research assistance.

We would also like to express our thanks to Kate Hickey, formerly of LexisNexis, who saw this edition through until almost the end, her replacements at LexisNexis, Banita Dimitrioska and Jocelyn Holmes, and also to Georgia O'Neill for her painstaking and scrupulous editorial work. All who assisted on the production side are particularly to be thanked for their patience as we sent through chapters on an erratic and piecemeal basis. Our thanks go too to Madeleine Davis, who prepared the Index.

Martin Davies
New Orleans

Andrew Bell
Sydney

Paul Brereton
Sydney

Table of Cases

references are to paragraphs

- A**
- A Co Ltd v Republic of X [1990] 2 Lloyd's Rep 520 10.16, 10.35
- A/O A M Luther v James Sagor & Co [1921] 3 KB 532 18.24
- A/S Tallinna Laevauhisus v Estonian State SS Line (1947) 80 LI LR 99 17.32
- A v A (Child Abduction) [1993] 2 FLR 225 13.36
- A v B [2007] 1 Lloyd's Rep 237 39.8
- A v B [1979] 1 NSWLR 57 28.13, 28.15
- A v GS (2004) 32 Fam LR 583 28.43
- Abate v Abate [1961] P 29 26.49
- ABC Shipbrokers v The Offi Gloria [1993] 3 NZLR 576 16.43, 33.71
- ABC v Lenah Game Meats Pty Ltd (2001) 208 CLR 199; 185 ALR 1 4.6
- Abebe v Commonwealth (1999) 197 CLR 510; 162 ALR 1 5.5
- AbidinDaver, The [1984] AC 398 7.88
- Abigroup Contractors Pty Ltd v Transfield Pty Ltd [1998] VSC 103 7.5
- Abouloff v Oppenheimer (1882) 10 QBD 295 40.68
- Abrook v Paterson (1995) 136 ALR 753 6.39 6.59
- Acc Fin International Securities Ltd v National Trustees Executors and Agency Co of Australasia Ltd (1990) 99 FLR 432 6.20
- ACD Tridon v Tridon Australia [2002] NSWSC 896 7.32, 7.35, 7.56
- Ace Insurance Ltd v Moose Enterprise Pty Ltd [2009] NSWSC 724 7.64, 7.66, 9.1, 9.20, 9.23, 9.33, 19.14, 19.19
- Ace Insurance SA NV v Zurich Insurance Co [2001] 1 Lloyd's Rep 618 7.60
- Acehill Investments Pty Ltd v Incitec Ltd [2004] SASC 344 35.10
- ACN 076 676 438 Pty Ltd (in liq) v A-Comms Teledata Pty Ltd [2000] WASC 214 3.105
- ACN 006 397 413 Pty Ltd v International Movie Group (Canada) Inc [1997] 2 VR 31 43.3, 43.13
- Acton Engineering Pty Ltd v Campbell (1991) 31 FCR 1 35.10
- Adams v Cape Industries plc [1990] Ch 433 26.62, 35.17, 35.24, 40.10, 40.11, 40.17, 40.19, 40.84, 40.85
- v National Bank of Greece SA [1961] AC 255 14.42, 14.45, 18.63, 19.101, 35.49
- Adcock v Aarons (1903) 5 WALR 140 3.45
- Addison v Brown [1954] 2 All ER 213 18.41
- Adelaide Electric Supply Co v Prudential Assurance Co [1934] AC 122 19.91
- AFG Insurances Ltd [2002] NSWSC 735 36.43
- AG for Ceylon v Reid [1965] AC 720 24.30, 24.36
- AG for Victoria v Commonwealth (1962) 107 CLR 529 29.7, 29.9
- AG v Bouwens (1838) 4 M & W 171 32.30, 32.39
- AG v Glendining (1904) 92 LT 87 32.43
- Agar v Hyde (2000) 201 CLR 552 3.29, 3.33, 3.36, 20.12
- Agee, In the Marriage of (2000) 27 Fam LR 140 28.73, 28.76
- Agnew v Usher (1884) 14 QBD 78 3.84
- Agro Co of Canada Ltd v The Regal Scout (1983) 148 DLR (3rd) 412 7.42
- v The Regal Scout [1984] 2 FC 851 7.21
- Ah Yin v Christie (1907) 4 CLR 1428 13.18
- Aichhorn & Co KG v The Ship MV Talabot (1975) 132 CLR 449 5.11
- AIG Europe SA v QBE International Insurance Ltd [2001] 2 Lloyd's Rep 268 7.23
- AIG Europe (UK) Ltd v The Ethniki [2000] 2 All ER 566 7.23
- AIG (UK) Ltd v QBE Insurance (Europe) Ltd [2008] QSC 308 6.31, 19.9
- Ainslie v Ainslie (1927) 39 CLR 381 26.52, 40.32, 40.42, 40.57, 40.59
- Air Attention WA Pty Ltd v Seeley International Pty Ltd (Walsh J, SC (WA), 3 September 1996, BC9604200, unreported) 6.29
- Air Foyle Ltd v Center Capital Ltd [2003] 2 Lloyd's Rep 753 40.89
- Air Nauru v Niue Airlines Ltd [1993] 2 NZLR 632 7.52
- Airbus Industrie GIE v Patel [1999] 1 AC 119; Turner v Grovit [2002] 1 WLR 107 9.8
- Ajlatni v Comptroller of Customs [1954] 1 WLR 1405 17.28
- Akai Pty Ltd v People's Insurance Co Ltd (1996) 188 CLR 418 6.32, 7.80, 19.11, 19.18, 19.22, 19.25, 19.26, 19.42, 19.49, 39.2, 39.3, 40.17

- v People's Insurance Co Ltd [1998] 1 Lloyd's Rep 90 9.1, 9.3, 9.20, 19.49, 40.17, 40.43
- v People's Insurance Company (1997) 188 CLR 418 7.40, 7.50
- Akbarali v Brent London Borough Council [1983] 2 AC 309 13.34, 13.36
- Al-Bassam v Al-Bassam [2002] EWHC 2281 19.8
- Al Battani, The [1993] 2 Lloyd's Rep 219 7.86, 19.49
- Al Midani v Al Midani [1999] 1 Lloyd's Rep 923 19.8
- Alaska Packers Assn v Industrial Accident Commission of California (1935) 294 US 532 2.22
- Albeko Schuhmaschinen AG v The Kamborian Shoe Machine Co Ltd (1961) 111 LJ 519 19.64
- Alcock v Smith [1892] 1 Ch 238 22.17, 22.22, 22.23, 22.24, 33.25
- Alcom Ltd v Republic of Columbia [1984] AC 580 10.20, 10.36
- Aldridge Electrical Industries Pty Ltd v Mobitec AB (2001) 39 ACSR 287 23.15
- Alexandra I, The [1972] 2 Lloyd's Rep 469 23.4
- Alexsandrov v Alexandrov [1967] SASR 303 26.48, 26.53
- Ali v Ali [1968] P 564 24.31, 24.34, 24.36, 24.37, 24.39
- Alkimos Shipping Company v Hind Lever Chemicals Corporation Ltd [2004] FCA 969 9.1, 9.20
- All-State Life Insurance Co v Australia and New Zealand Banking Group Ltd (No 33) (1996) 64 FCR 17.8
- Allan J Panozza & Co Pty Ltd v Allied Interstate (Q) Pty Ltd [1976] 2 NSWLR 192 16.17, 19.106
- Allen v Kemble (1848) 6 Moo PCC 314 22.29
- Allen v Lloyd's of London 94 F 3d 923 (1996) 7.47
- Alliance Bank (Ltd) v Irving (1865) 4 SCR (NSW) Eq 17 37.24
- Allison, In the Marriage of (1981) 1 SR(WA) 248 27.27
- Allonah Pty Ltd v The Ship Amanda N (1989) 21 FCR 60; 90 ALR 391 5.14
- Allsopp v Incorporated Newsagencies Co Pty Ltd (1975) 26 FLR 238 20.15, 20.71
- Allstate Insurance v Hague (1981) 449 US 302 2.24
- Allstate Life Insurance Co v ANZ Banking Group Ltd (1996) 64 FCR 1 9.1, 9.12, 9.15, 9.29
- v ANZ Banking Group Ltd (No 18) (1995) 133 ALR 667 11.17
- v Australia and New Zealand Banking Group Ltd (1996) 64 FCR 55 9.13
- v Australia and New Zealand Banking Group Ltd [1995] FCA 1563 9.1
- v Australia and New Zealand Banking Group Ltd (FCA, 21 September 1995, unreported) 9.19
- v Australia and New Zealand Banking Group Ltd (No 33) (1996) 64 FCR 79 17.30
- v Australia and New Zealand Banking Group Ltd (No 18) (1995) 133 ALR 667 11.18
- v Australia and New Zealand Banking Group Ltd (No 4) (Court's Allstate Judgment No 29) (1996) 64 FCR 61 11.18
- Altertext Inc v Advanced Data Communications Ltd [1985] 1 All ER 395 3.4, 4.16
- Aluminium Industrie Vaassen BV v Romalpa Aluminium Ltd [1976] 1 WLR 676 33.33
- Amaca Pty Ltd v Frost (2006) 67 NSWLR 635 20.11
- Amalgamated Wireless (Australasia) Ltd v McDonnell Douglas Corporation (1987) 77 ALR 537 35.20, 35.24
- Amanuel v Alexandros Shipping Co [1986] QB 464 3.77, 3.78
- Amazonia, The [1990] 1 Lloyd's Rep 236 7.25, 7.37
- Amchem Products Inc v Workers Compensation Board [1993] 1 SCR 897 9.8
- American Diagnostica Inc v Gradipore Ltd (1998) 44 NSWLR 312 39.1, 39.7, 39.9, 39.10
- American Nonwovens Inc v Non Wovens Engineering SRL, 648 So 2d 565, 567 (Ala 1994) 15.14
- Amin Rasheed Shipping Corporation v Kuwait Insurance Co [1984] AC 50 19.1, 19.23, 19.27, 19.31, 19.32, 19.33
- Amir of Qatar: Thor Shipping A/S v Ship 'Al Duha'il' (2008) 252 ALR 20 10.4
- Amor v Macpak Pty Ltd (1989) 95 ALR 10 6.51
- AMP Society v GEC Diesels Australia Ltd [1989] VR 407 3.64, 3.80
- v Gregory (1908) 5 CLR 615 32.5, 32.8, 32.11, 36.6
- Amrad Operations Pty Ltd v Genelabs Technologies Inc (1999) 45 IPR 447 3.36
- Amwano v Parbery (2005) 148 FCR 126; 226 ALR 767 8.37, 17.3
- Andersen v King County, 138 P 3d 963 (2006) (Washington) 24.8
- Anderson v Equitable Assurance Society of the United States (1926) 134 LT 557 23.7
- v Eric Anderson Radio and TV Pty Ltd (1965) 114 CLR 20 2.13, 2.14, 5.15
- v Johnson (1877) 1 Knox (NSW) 1 16.39
- v NV Transandine Handelsmij (1941) 31 NYS 2d 194 35.37
- Andhika Samyara, The [1989] 1 HKLR 198 7.42

- Andrico Unity, The 1989 (4) SA 325 16.43, 33.71
- Angelic Grace, The [1994] 1 Lloyd's Rep 168 7.72
- [1995] 1 Lloyd's Rep 87 9.20, 9.22
- Angliss v Urquhart [2002] NSWCA 256 31.1
- Anglo-Australian Foods Ltd v Von Planta (1988) 20 FCR 34 8.4
- Anglo-Czechoslovak & Prague Credit Bank v Janssen [1943] VLR 185 10.6
- Angus v Commonwealth (1962) 79 WN (NSW) 388 5.22
- Annefield, The [1971] P 168 at 173 7.22
- Annetts v Australian Stations Pty Ltd (2002) 211 CLR 317; 191 ALR 449 20.27
- Anning v Anning (1907) 4 CLR 1049 33.16, 33.30, 33.63
- Antclizo Shipping Corporation v Food Corporation of India (SC (WA), Bredmeyer M, 6 November 1998, unreported) 43.15
- Anton Piller KG v Manufacturing Processes Ltd [1976] Ch 55 4.1
- Antoniou, In the Marriage of [1990] FLC 92-146 28.21
- ANZ Banking Group Ltd v Cawood [1987] 1 Qd R 131 23.11, 23.20
- ANZ Grindlays Bank plc v Fattah (1991) 4 WAR 296 3.30, 3.4, 4.2, 4.16, 4.19, 4.20, 4.25
- APLA Ltd v Legal Services Commr (NSW) (2005) 224 CLR 322 2.3
- Apple Computer Inc v Apple Corporations SA [1990] 2 NZLR 598 7.52
- Apple Corporations Ltd v Apple Computer Inc [1992] RPC 70 9.20
- Applewhite v Etheridge (1936) 187 SE 588 33.53
- Application of Whitton [2007] NSWSC 606 4.14
- Apt v Apt [1947] P 127 14.4, 14.16, 14.17, 14.18, 14.41
- v Apt [1948] P 83 14.4, 25.8
- Arab Monetary Fund v Hashim (No 3) [1991] 2 AC 114 10.60
- Arab Monetary Fund v Hashim (No 5) [1992] 2 All ER 910 4.23
- v Hashim [1993] 1 Lloyd's Rep 543, affd [1996] 1 Lloyd's Rep 589 21.6
- v Hashim [1996] 1 Lloyd's Rep 589 21.6
- Aratra Potato Co Ltd v Egyptian Navigation Co (The El Amria) [1982] 1 Lloyd's Rep 119 7.89
- Arhill Pty Ltd v General Terminal Co Pty Ltd (1990) 23 NSWLR 545 4.10, 4.14, 11.5, 11.33
- Armcel Pty Ltd v Smurfit Stone Container Corporation (2007) 164 FCR 123 4.12
- v Smurfit Stone Container Corporation (2008) 248 ALR 573 3.37
- Armagas Ltd v Mundogas SA [1986] AC 717 20.6, 20.19
- Armar Shipping Co Ltd v Caisse Algerienne d'Assurance et de Reassurance (The Armar) [1981] 1 All ER 498 3.58
- Armitage v Attorney-General [1906] P 135 15.17, 26.46
- Armstead v Armstead [1954] VLR 733 13.8, 13.23
- Armstrong v Armstrong [1892] P 98 9.13
- Armytage v Armytage [1898] P 178 13.36
- Arnotts Ltd v Trade Practices Commission (1990) 97 ALR 555 5.15
- Ash v Lloyd's Corporation (1991) 6 OR (3d) 235; (1992) 9 OR (3d) 755 7.27, 7.47
- Ashville Investments v Elmer Contractors [1989] 1 QB 488 7.72
- ASIC v International Unity Insurance (General) Ltd [2004] FCA 1060 35.21
- Assetinsure Pty Ltd v New Cap Reinsurance Corporation Ltd (in liq) (2006) 225 CLR 331 32.32, 32.34
- Assicurazioni Generali SpA v Ege Sigorta A/S (Colman J, 31 July 2001, unreported) 7.23
- Associated Alloys Pty Ltd v ACN 001 452 106 Pty Ltd (in liq) (2000) 171 ALR 568 33.34
- Assunzione, The [1954] P 150 19.29
- Astley v Austrust Ltd (1999) 197 CLR 1; 161 ALR 155 20.36
- Atco Industries (Aust) Pty Ltd v Ancla Maritima SA (1984) 35 SASR 408 3.30
- Atkinson Footwear Ltd v Hodgskin International Services Ltd (1994) 31 IPR 186 32.38
- Atlantic Star, The [1974] AC 436 8.9
- Attorney-General (Alberta) v Cook [1926] AC 444 13.7, 13.17
- Attorney-General for Ceylon v Reid [1965] AC 720 24.24, 24.33
- Attorney-General (NSW) v Ray (1989) 90 ALR 263 6.48
- Attorney-General of England and Wales v R [2002] NZLR 91 14.40, 21.15
- Attorney-General of New Zealand v Ortiz [1984] AC 1 18.3, 18.24, 18.29, 18.30
- Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd (1987) 10 NSWLR 86 21.12
- v Heinemann Publishers Australia Pty Ltd (1988) 165 CLR 30 2.29, 10.70, 18.1, 18.3, 18.5, 18.8, 18.22, 18.29, 18.32
- Attorney-General v Kent (1862) 1 HL Cas 12 13.23
- v Kevin (2003) 30 Fam LR 1 24.1, 24.15, 24.16
- v McLean (1876) 14 SCR (NSW) 72 13.6
- v Parsons [1956] AC 421 35.40
- Attorney General v Otahuhu Family Court [1995] 1 NZLR 603 24.14
- Auckland Corporation v Alliance Assurance Co [1937] AC 587 19.91

- Augustus v Permanent Trustee Co (Canberra) Ltd (1971) 124 CLR 245 21.12, 34.9, 34.11
- Aussie Home Security Pty Ltd v Sales Systems Australia Pty Ltd (2000) 172 ALR 141 20.12
- Austral Pacific Group Ltd (in liq) v Airservices Australia (2000) 203 CLR 136; 173 ALR 619 5.15, 5.16, 5.17, 5.19
- Australasian Temperance and General Mutual Life Assurance Society Ltd v Howe (1922) 31 CLR 290 5.2
- Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd (2001) 208 CLR 199 9.5, 9.6
- v Waterhouse (1991) 25 NSWLR 519 6.37, 6.40, 6.44, 20.16
- Australian Commercial Research & Development Ltd v ANZ McCaughan Merchant Bank Ltd [1989] 3 All ER 65 8.42, 8.52, 8.54
- v ANZ McCaughan Merchant Bank Ltd [1990] 1 Qd R 101 3.30
- Australian Competition and Consumer Commission v April International Marketing Services Australia Pty Ltd [2009] FCA 735 3.32, 3.97
- v Chaste Corporation Pty Ltd (in liq) [2002] FCA 1183 3.27
- v Chen (2003) 132 FCR 309; 201 ALR 40 3.41
- v Kokos International Pty Ltd [2007] FCA 2035 3.11, 3.27
- Australian Federation of Consumer Organisations Inc v Tobacco Institute of Australia Ltd (1990) 95 ALR 444 11.17
- Australian Federation of Islamic Councils Inc v Westpac Banking Corporation (1988) 17 NSWLR 623 10.2, 10.9, 10.13, 10.20, 10.65
- Australian Insurance Brokers Ltd v Hudig Langeveldt Pty Ltd (No 2) (1991) 7 WAR 343 3.39
- Australian Iron and Steel v Hoogland (1962) 108 CLR 471 16.13
- Australian Medical Imaging Pty Ltd v Marconi Medical Systems Australia Pty Ltd (2001) 53 NSWLR 1 11.17
- Australian Mutual Provident Society v Gregory (1908) 5 CLR 615 33.74, 33.75, 36.4
- Australian Securities and Investments Commission v Edensor Nominees Pty Ltd (2001) 204 CLR 559; 177 ALR 329 5.15, 5.16, 5.19
- v Rich (2004) 49 ACSR 578 11.17, 11.22
- v Sweeney (No 2) (2001) 38 ACSR 743 3.11, 3.27
- Australian Securities Commission v Bank Leumi Le-Israel (1995) 134 ALR 101 17.10
- Australian Solar Mesh Sales Pty Ltd v Anderson (2000) 101 FCR 1; 175 ALR 566 5.4, 5.5
- Australian Wool Innovation Ltd v Newkirk [No. 2] [2005] FCA 1307 17.4
- Austrian Lloyd Steamship Co v Gresham Life Assurance Society Ltd [1903] 1 KB 249 7.63, 7.67
- AV & P Kemeny, In the Marriage of (1998) 23 Fam LR 105 26.6
- Avondale Motors (Parts) Pty Ltd v FCT (1971) 124 CLR 97 36.53
- Axon v Axon (1937) 59 CLR 395 25.73
- Ayres v Evans (1981) 39 ALR 129 18.14, 36.40, 36.42
- Ayres v Evans (1981) 56 FLR 235 (FC) 36.39, 36.41
- B**
- Baba v Jarvinen (1980) FLC 90–882 27.30
- Babanaft International Co SA v Bassatne [1990] Ch 13 4.21, 34.31
- Babcock v Jackson, 12 NY 2d 473 (1963) 12.13
- v Jackson 191 NE 2d 279 (1963) 20.1
- Baden v Société Générale pour Favoriser le Développement du Commerce et de l'Industrie en France SA [1993] 1 WLR 509 40.63
- Baehr v Lewin 852 P 2d 44 (1993) 24.8
- Baindail v Baindail [1946] P 122 24.46
- Bairstow v Queensland Industries Pty Ltd [1955] St R Qd 335 30.34
- Bajpayee v Ship Estancia [2003] FCA 1640 5.6
- Bak & Bak (1980) FLC 90–877 27.30
- Baker v General Motors Corporation (1998) 522 US 222 2.23
- v Vermont 744 A 2d 864 (Vt, 1999) 24.8
- Bakri Navigation Company Ltd v Glorious Shipping SA, Owners of Ship 'Golden Glory' (Fed C of A, Gummow J, 5 June 1991, unreported) 7.29
- v Owners of Ship 'Golden Glory' (1991) 217 ALR 152 7.29
- Balajan v Nikitin (1994) 35 NSWLR 51 3.119, 38.42, 38.43
- Baldry v Jackson [1976] 1 NSWLR 19 3.10
- v Jackson [1977] 1 NSWLR 494 20.45, 20.48
- Ballabil Holdings Pty Ltd v Hospital Products Ltd (1985) 1 NSWLR 155 4.23, 4.24, 4.27
- Bamgbose v Daniel [1955] AC 107 29.9
- Banco Atlantico SA v British Bank of the Middle East [1990] 2 Lloyd's Rep 504 22.17
- Banco de Bilbao v Sancha [1938] 2 KB 176 35.29, 35.37
- Banco de Portugal v Waddell (1880) LR 5 AC 161 36.59, 36.61
- Banco de Vizcaya v Don Alfonso de Borbon y Austria [1935] 1 KB 140 18.16, 18.20

- Bando Trading Co Ltd v Registrar of Titles [1975] VR 353 23.10
- Bangkok Bank Ltd v Swatow Lace Co Ltd [1963] NSWLR 488 11.19
- Banh, In the Marriage of (1981) 6 Fam LR 643 17.47
- Bank Mellat v Helliniki Techniki SA [1984] QB 291 39.10
- Bank of Africa Ltd v Cohen [1909] 2 Ch 12 19.55, 33.18
- Bank of New South Wales v Commonwealth Steel Co Ltd [1983] 1 NSWLR 69 3.79
- Bank of New York v Bank of America, 861 F Supp 225 (1994) 9.1, 9.19
- Bank of New Zealand v Lloyd (1898) 14 WN (NSW) 160 40.26
- v Proudfoot (1885) 6 LR (NSW) 177 36.8
- Bank of Tokyo Ltd v Karoon [1987] AC 45 8.42, 9.17, 9.27, 9.28
- Bank Polska v Opara [2007] QSC 1 40.60, 40.76
- v KJ Mulder & Co [1942] 1 KB 497 22.17
- Bank v White (No 3) [2000] VSC 259 9.1
- Bank voor Handel en Scheepvaart NV v Slatford [1953] 1 QB 248 18.22, 33.21
- Bankers and Traders Insurance Co Ltd v FCT (1946) 73 CLR 39 32.38
- Bankers Trust Co v PT Jakarta International Hotels and Development [1999] 1 Lloyd's Rep 910 9.20
- Bankers Trust International Ltd v Todd Shipyard Corporation (The Halcyon Isle) [1981] AC 221 33.71
- Bankinvest AG v Seabrook (1988) 14 NSWLR 711 6.15, 6.24, 6.28, 6.35, 6.44, 6.54
- Banku Polskiego v KJ Mulder [1941] 2 KB 266 22.34
- Bannerton Holdings Pty Ltd v Sydbank Soenderjylland A/S (Fed C of A, Nicholson J, 9 February 1996, 133/1993, BC9600172, unreported) 40.14
- Banque Internationale de Commerce de Petrograd v Goukassow [1923] 2 KB 682 37.5
- Barbour v Paradis (1929) QR68SC 31 22.28
- Barcelo v Electrolytic Zinc Co (1932) 48 CLR 391 15.11, 19.18, 19.93
- Barclays Bank International v Levin Bros (Bradford) Ltd [1977] 1 QB 270 23.18, 23.19
- v Piacun [1984] 2 Qd R 476 40.32, 41.10, 41.16
- Baretto v Young [1900] 2 Ch 339 38.66
- Barnes; Ex parte Barnes v Makhoul (1994) 53 FCR 169 36.54
- Barnes v Ministry of Defence (UK) (1997) 14 NSWCCR 450 10.2, 10.25
- Barraclough, In the Marriage of (1987) 11 Fam LR 773 28.61
- Barriga, In the Marriage of (No 2) (1981) 7 Fam LR 909 25.33, 26.17, 26.41, 26.42, 26.44
- Barrios and Sanchez, In the Marriage of (1989) 13 Fam LR 477 28.26, 28.41
- Barros Mattos Junior v Macdaniels [2005] ILPr 630; EWHC 1323 21.5, 21.6
- Barton v DCT (1974) 131 CLR 370 36.53
- Baschet v London Illustrated Standard Co [1900] 1 Ch 73 16.44
- Base Metal Trading Ltd v Shamurin [2005] 1 WLR 1157 20.36
- v Shamurin [2005] 1 WLR 1316 21.15, 35.42
- Bata v Bata (1948) 92 Sol Jo 574 3.66
- Batchelder v Kawamoto, 147 F 3d 915 (9th Cir, 1998) 35.44
- Bateman v Service (1881) 6 App Cas 386 35.39, 35.40
- Bath v British and Malayan Trustees Ltd (1969) 90 WN (NSW) (Pt 1) 44 18.8, 18.12
- v British and Malayan Trustees Ltd [1969] 2 NSWLR 114 37.12, 37.37, 37.38
- Battenberg v Restom [2007] FCFCA 195 13.35
- Battenberg v Restrom [2006] FCAFC 20; (2006) 149 FCR 128 4.15, 36.50
- Bazias 3, The [1993] QB 673 5.14
- Beals v Saldanha [2003] 3 SCR 416 40.8, 40.22
- Beasley v State Government Insurance Commission (SA) (1988) 92 FLR 257 10.2, 10.3
- Beatty v Beatty [1924] 1 KB 807 40.34
- Beaudoin v Trudel [1937] 1 DLR 216 27.12
- Beckford v Kemble (1822) 1 Sim & St 7; 57 ER 3 3.124
- v Wade (1805) 17 Ves J 87; 34 ER 34 16.12
- Beer v Patrick (1880) 1 LR (NSW) 157 40.54
- Beldis, The [1936] P 51 5.13
- Belgenland, The, 114 US 355 (1885) 8.8
- Bell Group (in liq) v Westpac Banking Corporation (2004) 208 ALR 491 11.17, 11.21, 11.22, 11.24, 11.32
- v Westpac Banking Corporation (2000) 104 FCR 305 6.6, 6.53, 6.57
- Bell v Bell (1954) 73 WN (NSW) 7 42.17, 42.20
- Bella Products Pty Ltd v Creative Designs International Ltd (2009) 258 ALR 538 8.46, 8.48
- Bellinger v Bellinger [2003] UKHL 21; 2 AC 467 24.14
- Belmont v Fitzpatrick [1973] 2 NZLR 532 41.5
- Belyando Shire Council v Rivers (1908) QWN 17 3.45
- Benarty, The [1984] 2 Lloyd's Rep 244 7.43

- Benefit Strategies Group Inc v Prider (2007) 211 FLR 113 40.32
- Benefit Strategies Group Inc v Prider (2005) 91 SASR 544 18.18, 40.2, 40.42, 40.57, 40.59, 40.63, 40.70, 40.78, 40.86
- Berdan v Greenwood (1880) 20 Ch D 764 11.19
- Berezovsky v Michaels [2000] 2 All ER 986 (HL) 3.66, 20.16
- Bergerem v Marsh (1921) 125 LT 630 36.5
- Berisford plc v New Hampshire Insurance Co [1990] 2 QB 631 7.60
- Berny, The [1979] QB 80 5.11
- Berriman v Cricket Australia (2007) 17 VR 528 16.10
- Berthiaume v Dastous [1930] AC 79 25.2, 25.4
- Best Floor Sanding Pty Ltd v Skyer Australia Pty Ltd [1999] VSC 170 7.57
- Betta Cones Co Pty Ltd v Microbyte Investments Pty Ltd [1993] ACL Rep 185 Vic 10 4.23, 4.24
- Betty Ott, The v General Bills Ltd [1992] 1 NZLR 655 16.43, 33.71
- Beximco Pharmaceuticals Ltd v Shamil Bank of Bahrain [2004] 1 WLR 1784 19.7, 19.16
- BHP Billiton Ltd v Schultz (2004) 221 CLR 400 3.25, 5.2, 5.3, 5.18, 6.1, 6.5, 6.13, 6.16, 6.24, 6.28, 6.30, 6.31, 6.35, 6.53, 8.2
- BHP Petroleum Pty Ltd v Oil Basins Ltd [1985] VR 725 3.57, 3.75, 3.84, 3.87, 19.17, 35.17, 35.18, 35.20
- BHPB Freight Pty Ltd v Cosco Oceania Chartering Pty Ltd (2008) 168 FCR 169 7.21, 7.32, 7.33, 7.36, 9.1, 10.15, 39.2
- Bialkower v Acohs Pty Ltd (1998) 83 FCR 1 5.15
- Biota Holdings Ltd v Glaxo Group Ltd [2006] VSC 71 11.35
- Bishop v Bishop [1971] 1 NSWLR 300 26.41
- Biskra, The [1983] 2 Lloyd's Rep 59 7.36
- Bisso v Inland Waterways Corporation, 349 US 85 (1955) 7.44, 7.45
- Black-Clawson International Ltd v Papierwerke Waldhof-Aschaffenburg AG [1975] AC 591 14.26, 40.49, 41.32
- v Papierwerke Waldhof-Aschaffenburg AG [1981] 2 Lloyd's Rep 446 39.2, 39.4
- Black v Yates [1992] 1 QB 526 40.47, 40.48
- Blackett v Darcy (2005) 62 NSWLR 392 13.18
- Blackman & Co v Oliver Davey Glass Co [1966] VR 570 7.80
- Blackmer v United States, 284 US 421 (1932) 11.5
- Blackwood v R (1882) 8 App Cas 82 37.5
- Blair and Jenkins, In the Marriage of (1988) 12 Fam LR 85 28.29
- Blair v Blair [1968] 3 All ER 639 26.43
- Blake v Norris (1991) 20 NSWLR 300 6.14
- Bliersbach v McEwen [1959] SC 43 25.3
- Blohn v Desser [1962] 2 QB 116 40.19, 40.31
- Blue Wave, The [1982] 1 Lloyd's Rep 151 7.20, 7.86
- Blunden v Commonwealth (2003) 218 CLR 330; 203 ALR 189 5.15, 5.21, 5.22, 12.4, 20.75, 20.76, 20.77
- Bodley Head Ltd, The v Flegon [1972] 1 WLR 680 19.52, 19.84
- Boele v Norsemeter Holding AS [2002] NSWCA 363 17.45, 40.42, 40.55, 40.59, 40.81, 40.82
- Bond Brewing Holdings Ltd v Crawford (1989) 1 WAR 517 6.12, 42.28, 42.29
- Bond Corporation Pty Ltd v Thiess Contractors Pty Ltd (1987) 71 ALR 125 5.16
- Bondholders Securities Corporation v Manville [1933] 4 DLR 699 22.7, 33.66
- Bonkowsky v Bonkowsky [1960] NSWLR 251 17.28
- Bonny v Society of Lloyd's, 3 F 3d 156 (1993) 7.47
- Bonython v Commonwealth (1948) 75 CLR 589 23.2, 23.7, 23.9
- v Commonwealth [1951] AC 201 19.28, 19.90, 23.1, 23.4, 23.5
- Boocock v Hilton International Co [1993] 4 All ER 19 3.30
- Borch v Answer Products Inc [2000] QSC 379 3.29, 3.34, 3.73
- Borg Warner (Aust) Pty Ltd v Zupan [1982] VR 437 2.26, 20.43
- Boswell v Coaks (No 2) (1894) 6 R 167 40.68
- Bourke v State Bank of New South Wales (1988) 85 ALR 61 6.21
- Bouton v Labiche (1994) 33 NSWLR 225 30.26, 30.30
- v Noyaux (Powell J, SC (NSW) 2755/92, 2 August 1993, unreported) 30.26
- Bouygues Offshore SA v Caspian Shipping Co (Nos 1, 3, 4 and 5), [1998] 2 Lloyd's Rep 461 7.89
- Bowden Bros & Co v Imperial Marine and Transport Insurance Co (1905) 5 SR (NSW) 614 17.37
- v Imperial Marine Transport Insurance Co (1902) 2 SR (NSW) 257 35.16
- Bowling v Cox [1926] AC 751 3.45
- Bowtell v Commonwealth (1989) 86 ALR 31 5.20
- Boyd v Leslie [1964] VR 728 37.6
- Boyle v Sacker (1888) 39 Ch D 249 3.103
- Boys v Chaplin [1971] AC 356 12.15, 12.16, 20.2
- BP Australia v Wales [1982] Qd R 386 3.61
- BP Exploration Co (Libya) Ltd v Hunt [1980] 1 NSWLR 496 17.41, 41.8
- v Hunt [1976] 3 All ER 879 3.27, 3.46
- v Hunt (No 2) [1979] 1 WLR 783 23.12

- BP plc v National Union Fire Insurance Co [2004] EWHC 1132 19.9
- BP Refinery (Westernport) Pty Ltd v Shire of Hastings (1977) 180 CLR 266 19.22
- Brabender v Brabender [1949] VLR 69 13.6
- Bradford Electric Light Co v Clapper (1932) 286 US 145 2.21
- Bradford v Bradford [1943] SASR 123 13.6
- Braes of Doune Wind Farm (Scotland) Ltd v Alfred McAlpine Business Services Ltd [2008] 1 Lloyd's Rep 608 39.7
- Brailey v Rhodesia Consolidated Ltd [1910] 2 Ch 95 17.24
- Brassard v Smith [1925] AC 541 32.41
- Braun v The Custodian [1944] 3 DLR 412 32.42, 33.37
- Bray v F Hoffmann-La Roche Ltd (2002) 118 FCR 1 35.22, 35.24
- v F Hoffmann-La Roche Ltd (2003) 139 FCR 317 3.37
- BRC Piling Pty Ltd v Trans Pacific Shipping Co [1992] 2 VR 686 6.39
- Breavington v Godleman (1988) 169 CLR 41 1.2, 1.16, 1.24, 2.2, 2.6, 2.10, 2.11, 2.14, 2.15, 2.24, 2.26, 2.27, 2.28, 5.19, 5.22, 8.1, 9.25, 12.4, 12.17, 12.20, 12.21, 12.22, 16.14, 42.33
- Breen v Breen [1964] P 144 25.38
- Bremer v Freeman (1857) 10 Moo PC 306 17.5
- Brent v Chapman, 9 US (5 Cranch) 358 (1809) 16.12
- Brereton v Milstein [1988] VR 508 4.24
- Bright v Femcare Ltd (2000) 175 ALR 50 20.62
- Brinkibon Ltd v Stahag Stahl GmbH [1983] 2 AC 34 3.51
- Bristow v Sequeville (1850) 5 Exch 275 17.23, 19.58
- British Aerospace plc v Dee Howard Co [1993] 1 Lloyd's Rep 368 7.65, 7.83
- British Airways Board; British Caledonian Airways Ltd v Laker Airways Ltd [1985] AC 58 9.32
- British American Tobacco Australia Ltd v Western Australia (2003) 217 CLR 30; 200 ALR 403 5.2, 5.15, 5.16, 5.22
- British and French Trust Corporation v New Brunswick Ry Co [1937] 4 All ER 516 19.91
- British Controlled Oil Fields v Stagg [1921] WN 319 19.18
- British Nylon Spinners Ltd v ICI Ltd [1953] Ch 19 18.31, 18.48
- British South Africa Co v Companhia de Moçambique [1893] AC 602 3 3.1, 3.108, 3.130
- v De Beers Consolidated Mines Ltd [1910] 2 Ch 502 33.9
- Brix-Neilson v Oceaneering Australia Pty Ltd [1982] 2 NSWLR 173 3.64
- Brockley Cabinet Co Ltd v Pears (1972) 20 FLR 333 41.16
- Brodie v Singleton Shire Council (2001) 206 CLR 512; 180 ALR 145 20.28
- Broken Hill Pty Ltd v Potter (1906) 3 CLR 4 3.1
- Brown Boveri (Australia) Pty Ltd v Baltic Shipping Co (1989) 15 NSWLR 448 23.8, 23.11, 23.12, 23.13, 23.16
- Brown v Beleggings Societeit NV (1961) 29 DLR (2d) 673 33.37
- v Brown (1933) 50 WN (NSW) 33 13.24
- v Brown [1963] NSWLR 1371 26.63
- v Gregson [1920] AC 860 38.54
- v Kalal (1986) 11 Fam LR 349 28.14, 28.15
- v Kalal (1986) 7 NSWLR 423 13.36
- v Lemeki and Papua New Guinea [1997] HREOCA 25 10.24, 10.57
- Browne v Browne [1917] NZLR 668 13.18
- Buchanan v Rucker (1808) 9 East 192 40.81
- Buciu v Sabau (1997) 22 Fam LR 75 13.26, 25.34
- Buck v Attorney-General [1965] Ch 745 10.70
- Buisson v Warburton (1873) 4 AJR 43 36.30
- Bulk Chartering & Consultants Australia Pty Ltd v T & T Metal Trading Ltd (The 'Krasnogorsk') (1993) 31 NSWLR 18 39.2
- Bulldogs Rugby League Club Ltd v Williams [2008] NSWSC 822 3.11, 3.41, 3.101
- Bulong Nickel Pty Ltd (2002) 26 WAR 466 40.77
- Bumper Development Corporation Ltd v Commr of Police of the Metropolis [1991] 4 All ER 638 16.36, 17.31, 17.33, 35.32
- Bunbury v Bunbury (1839) 1 Beav 318 37.23
- Burmine Ltd v Mount Edon Gold Mines (Australia) Ltd (1993) 12 ACSR 360 35.10
- Burnfiel v Burnfiel [1925] 3 DLR 935 26.47
- Burnham v Superior Court, 495 US 604 (1990) 3.7
- Buron v Denman (1848) 2 Exch 167 10.69
- Burpee v Burpee [1929] 3 DLR 18 40.13
- Bushfield Aircraft Co v Great Western Aviation Pty Ltd (1996) 16 SR(WA) 97 40.8, 40.10, 40.13
- Busst v Lotsirb Nominees Pty Ltd [2003] 1 Qd R 477 19.30, 19.33
- Buttes Gas and Oil v Hammer [1982] AC 888 10.73, 10.81, 10.82
- Buttidgeig v Universal Terminal and Stevedoring Corporation [1972] VR 626 3.65, 20.6, 20.9
- Buzzacott v Gray [1999] FCA 1525, BC9907149, 10.30

- Byrnes v Groote Eylandt Mining Co Pty Ltd (1990) 19 NSWLR 13 16.13
- C**
- C and C, In the Marriage of (1998) 23 Fam LR 491 25.70
- C Sleigh Ltd v Barry Clarke & Co [1954] SASR 49 3.2
- C v C [1989] 2 All ER 465 28.77
- C v C (Abduction: Rights of Custody) [1989] 2 All ER 465 28.59, 28.71
- C v C (Ancillary Relief: Nuptial Settlement) [2005] Fam 250 34.25
- C v D [2008] 1 Lloyd's Rep 329 39.1, 39.3, 39.8
- C v D [2007] EWHC 1541 39.4, 39.8
- Cadet v Stevens (1966) 40 ALJR 171, 5.2
- Cain, In the Marriage of (1987) 11 Fam LR 540 27.24, 27.31
- Caldwell v Caldwell [1946] SASR 185 13.36
- Callwood v Callwood [1960] AC 659 17.5, 27.20
- Cambridge Credit Corporation (In liq) v Lissenden (1987) 8 NSWLR 411 20.51, 32.35
- Cambridge Gas Transportation v Official Committee of Unsecured Creditors of Navigator Holdings plc [2007] 1 AC 508 36.1
- Camdex International Ltd v Bank of Zambia (No 2) (1997) Times 28 January 1997 18.29
- Cammell v Sewell (1860) 5 H & N 728 22.22, 33.22, 33.42, 33.47, 40.28
- Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd (2006) 229 CLR 386 33.67
- Campos v Kentucky and Indiana Terminal Railroad Co [1962] 2 Lloyd's Rep 459 23.8
- Canadian Pacific Railway Co v Parent [1917] AC 195 20.37
- Canning v Brown (1867) 6 SCR (NSW) (L) 169 17.23
- Cannon Screen Entertainment Ltd v Handmade Films (Distributors) Ltd (July 11, 1989, unreported) 7.65
- Cannon Street Pty Ltd v Karedis [2007] 1 Qd R 505 19.81
- Cap Blanco, The [1913] P 130 7.63
- Carbotrade SpA v Bureau Veritas, 99 F 3d 86, 1997 AMC 98 (2d Cir 1996) 20.76
- Carbulon v Carbulon (1944) 57 NE 2d 59 26.47
- Cardile v LED Builders Pty Ltd (1999) 198 CLR 380 4.6, 4.17, 4.19, 4.28, 9.6, 40.39
- Carl Zeiss Stiftung v Rayner & Keeler Ltd (No 2) [1967] AC 853 17.6, 33.51, 35.38, 35.39, 40.2, 40.35, 40.43, 40.45, 40.50, 40.51, 40.53, 40.88
- Carmona v White (1980) 25 SASR 525 29.10
- Carnegie Corporation v Pursuit Dynamics Plc (2007) 162 FCR 375 4.2
- Carnival Cruise Lines Inc v Shute, 499 US 585 (1991) 7.85
- Carob Industries Ltd (In Liq) v Simto Pty Ltd [1997] 18 WAR 1 7.22
- Carolina Co v Assurantie NV [1987] AC 24 9.13
- Carr v Fracis Times & Co [1902] AC 176 10.71
- Carrick Estates Ltd v Young [1988] 1 WWR 261 40.14
- Carroll v Lanza (1955) 349 US 408 2.22
- Carron Iron Co v Maclaren (1855) 5 HL Cas 416 9.2
- Carvalho v Hull, Blyth (Angola) Ltd [1979] 1 WLR 1228 7.28, 7.78, 7.86, 7.88
- Casdagli v Casdagli [1919] AC 145 1.15, 13.5
- Cash v Nominal Defendant (1969) 90 WN (NSW) Pty 1 77 37.6, 37.7, 37.8
- Cashel v Carr (2005) 34 Fam LR 256 26.6
- Castillon v P & O Ports Ltd [2007] QCA 364 40.51
- Castree v Squibb Ltd [1980] 2 All ER 589 3.65
- Castrique v Imrie (1870) LR 4 HL 414 33.22, 40.27, 40.28
- Caterpillar Inc v Lewis, 519 US 61 (1996) 5.2
- Catterall v Catterall (1847) 1 Rob Eccl 580 25.8, 25.9
- CBS United Kingdom Ltd v Lambert [1983] Ch 37 4.23
- CE Heath Underwriting & Insurance (Australia) Pty Ltd v Barden (SC (NSW), Rolfe J, 19/10/94, BC9403144, unreported) 8.55
- Cell Tech Communications Pty Ltd v Nokia Mobile Phones (UK) Ltd (1995) 58 FCR 365 3.36
- Celtic Resources Holdings plc v Arduina Holding BV (2006) 32 WAR 276 4.6, 4.19, 4.20, 40.40
- Censori v Holland [1993] 1 VR 509 42.30
- Central Authority v Perry (1995) 20 Fam LR 380 28.67
- Century Yuasa Batteries Pty Ltd v Turek [2004] QSC 271 8.48
- Chaff and Hay Acquisition Committee v JA Hemphill & Sons Pty Ltd (1947) 74 CLR 375 35.30, 35.31
- Challener v Douglas [1983] 2 NSWLR 405 3.64
- Channel Tunnel Group Ltd v Balfour Beatty Construction Ltd [1993] AC 334 4.5, 9.3, 39.1

- Chaparral, The [1968] 2 Lloyd's Rep 158
.... 7.61
— 428 F 2d 888 (5th Cir, 1970) 7.51
— 407 US 1 (1972); [1972] 2 Lloyd's Rep 315
.... 7.44, 7.85, 7.86
Chaplin v Boys [1971] AC 356 14.47
Chapman and Jansen, In the Marriage of
(1990) 13 Fam LR 853 6.26
Chapman Marine Pty Ltd v Wilhelmsen Lines
A/S [1999] FCA 178 17.2
Chapman v Luminis Pty Ltd (1998) 86 FCR
513 5.15
—v Travelstead (1998) 86 FCR 460 36.27, 36.31
Chappel v Hart (1998) 195 CLR 232; 156
ALR 517 16.23, 20.32
Charles T Dougherty Co Inc v Krimke (1929)
144 A 617 33.45
Charron 19.53
Charron v Montreal Trust Co (1958) 15 DLR
(2d) 240 19.51, 33.66, 37.7, 37.8
Chartered Bank v Daklouche [1980] 1 All ER
205 4.17
Chase Manhattan Bank NA v Israel-British
Bank (London) Ltd [1981] Ch 105
.... 16.2, 21.6
Chase Manhattan Bank v New Hampshire
Insurance Co, 749 NYS 2d 632 (NY Sup
2002) 8.54
Chatenay v Brazilian Submarine Telegraph Co
[1891] 1 QB 79 19.89
Chaudhary v Chaudhary [1985] Fam 19 26.70
Chaudhry v Chaudhry [1976] Fam 148
.... 24.48
Chellaram v Chellaram [1985] Ch 409 34.5,
34.10, 34.14, 34.16, 34.27
Cheni v Cheni [1965] P 85 24.26
Chenoweth v Summers [1941] Arg LR(CN)
364a, 3.45
Chetti v Chetti [1909] P 67 25.41
Chief Collector of Taxes Papua New Guinea
v TA Field Pty Ltd (1975) 49 ALJR 351
.... 23.11
Chief Commr of Stamp Duties v Paliflex Pty
Ltd (1999) 47 NSWLR 382 32.19
Chief Executive Officer of Customs v Labrador
Liquor Wholesale Pty Ltd (2003) 216 CLR
161; 201 ALR 1 5.15
China Sichuan Chanhong Electric Company
Ltd v CTA International Pty Ltd [2009]
FCA 397 43.6
Choice Investments Ltd v Jeromnimon
Midland Bank Ltd, Garnishee [1981] QB
149 23.15, 23.21
Chong, In the Marriage of (1992) 15 Fam LR
629 28.20
Chowdhury v Mitsui OSK Lines Ltd [1970] 2
Lloyd's Rep 272 7.42
Christofaro v Christofaro [1948] VLR 193
.... 12.12
Christos, The [1977] 1 Lloyd's Rep 109
.... 7.36
Citi-March Ltd v Neptune Orient Lines Ltd
[1996] 2 All ER 545; [1997] 1 Lloyd's Rep
72 7.89
Clague v Graves (1987) 11 Fam LR 494 28.27
Clark v Fowler (1995) 38 NSWLR 714
.... 16.19
Clarke v Clarke [1964] VR 773 13.36
—v Lo Bianco (1991) 59 BCLR (2d) 334 40.9
Cleaver v Delta American Reinsurance Co (in
liq) [2001] 2 AC 328 36.59
Cloncurry's Case (1811) 25.21
Close v Arnot (SC (NSW), Graham AJ, 21
November 1997, BC9706194, unreported)
.... 40.6, 40.69, 41.19
Clough Engineering Ltd v Oil & Natural Gas
Company of India (2008) 249 ALR 458
.... 7.40, 7.47, 19.13, 19.47, 19.48
Clunies-Ross v Totterdell (1988) 20 FCR 358
.... 36.43
Clyne v Federal Commr of Taxation (No 2)
(1981) 57 FLR 198 17.24
Coast Lines Ltd v Hudig & Veder Chartering
NV [1972] 2 QB 34 7.43, 19.35, 19.37
Coates as Liquidator of Campus Holidays Ltd
v Charles Porter & Sons Pty Ltd (1990) 2
ACSR 733 3.62
Codelfa Construction Pty Ltd v State Rail
Authority (NSW) (1982) 149 CLR 337
.... 16.22, 19.22, 19.25
Coin Controls Ltd v Suzo International (UK)
Ltd [1999] Ch 33 32.37
Colbert v Tocumwal Trading Co Pty Ltd
[1964] VR 820 3.105
Coleman v Shang [1961] AC 481 24.48
Collens [1986] Ch 505 38.5
Collier v Rivaz (1841) 2 Curt 855; 163 ER 608
.... 15.17, 15.21, 17.5
Collins v A-G (1931) 47 TLR 484 29.31
Colonial Bank v Cady (1890) 15 App Cas 267
.... 32.44, 33.37
Colorado, The [1923] P 102 16.42
Colosseum Investment Holdings Pty Ltd v
Vanguard Logistics Services Pty Ltd [2005]
NSWSC 803 3.64, 3.79, 8.28, 8.29
Colt Industries Inc v Sarlie (No 2) [1966] 3 All
ER 85 40.31
Comalco Ltd v Australian Broadcasting
Corporation (1985) 64 ACTR 1 20.15
Comandate Marine Corporation v Pan
Australia Shipping Pty Ltd (2006) 157
FCR 45 5.10, 5.14, 6.19, 7.3, 7.55, 7.76,
19.13, 39.1
—v Ship Boomerang 1 (2006) 151 FCR 403;
234 ALR 169 5.8
Commercial Union Assurance Co Plc v NRG
Victory Reinsurance Ltd [1998] 1 Lloyd's
Rep 80 19.9

- Commonwealth Bank of Australia v White (No 4) [2001] VSC 511 3.73
- v White; Ex parte The Society of Lloyd's [1999] 2 VR 681 7.27, 7.40, 7.47
- v White [1999] 2 VR 681 3.33, 3.57, 3.73, 20.61
- v White (No 3) [2000] VSC 259 8.48
- Commonwealth Development Corporation (UK) Ltd v Montague [2000] QCA 252 43.8
- Commonwealth of Australia v Dixon (1988) 13 NSWLR 601 5.22
- Commonwealth v Evans Deakin Industries Ltd (1986) 161 CLR 254 5.21
- v Mewett (1997) 191 CLR 471 5.15, 5.21, 5.22
- v Verwayen (1990) 170 CLR 394 7.31, 16.13
- v Woodhill (1917) 23 CLR 482 3.112
- v Yarmirr (2001) 200 CLR 1 32.15
- Commr for Railways (Qld) v Peters (1991) 24 NSWLR 407 5.19, 5.22
- Commr of Police (WA) v Dormann (1997) FLC 92-766, 28.67, 28.73
- Commr of Stamp Duties for Queensland v Livingston [1965] AC 694 32.36
- Commr of Stamp Duties (NSW) v Owens (No 2) (1953) 88 CLR 168 5.16
- Commr of Stamp Duties v Salting [1907] AC 449 32.36
- Commr of Stamps v Hope [1891] AC 476 32.25
- Commr of State Taxation (WA) v Mechold Pty Ltd (1995) 30 ATR 69 4.24
- Commr of Succession Duty v Hargrave (1972) 3 SASR 118 16.38
- Commr of Taxation (Cth) v Karageorge (1996) 34 ATR 196 4.24
- Commr of Taxation v Energy Resources of Australia (1994) 54 FCR 25; 126 ALR 161 (aff'd on other grounds (1996) 185 CLR 66; 137 ALR 18) 23.9
- v Ma [1999] FCA 1093 35.20
- Compagnie des Messageries Maritimes v Wilson (1954) 94 CLR 577 7.41, 7.42, 12.22, 19.40
- Compagnie Tunisienne de Navigation SA v Compagnie d'Armement Maritime SA [1971] AC 572 7.12, 19.8, 19.22, 19.26, 19.27, 19.32, 39.3, 43.8
- Conagra Inc v McCain Foods (Aust) Pty Ltd (1992) 33 FCR 302 20.20
- Conagra International Fertiliser Co v Lief Investments Pty Ltd (1997) 141 FLR 124 8.43
- Concha v Murietta (1889) 40 Ch D 543 17.33
- Conley v FCT (1998) 81 FCR 24; 152 ALR 467 23.15
- Connolly v RTZ Corporation Plc [1998] AC 854 8.9, 8.11
- Connop v Varena Pty Ltd [1984] 1 NSWLR 71 41.11
- Connor v Connor [1974] 1 NZLR 632 18.14, 18.15, 41.16
- Continental Bank NA v Aeakos Compania Naviera SA [1994] 1 WLR 588 7.65, 7.72
- Cook Industries Inc v Galliher [1979] Ch 439 4.16
- Cook v Gregson (1854) 2 Drew 286; 61 ER 729 16.42
- Cooke v The Charles A Vogeler Co [1901] AC 102 36.50, 36.51
- Coombs & Barei Constructions Pty Ltd v Dynasty Pty Ltd (1986) 42 SASR 413 4.24
- Cooper-King v Cooper-King [1900] P 65 17.28
- Cooper v Casey (1995) 18 Fam LR 433 13.34, 13.35, 13.36, 28.42
- Copin v Adamson (1875) LR 1 Ex D 17 40.18
- Corbett v Corbett (orse Ashley) [1971] P 83 105 24.6
- v Corbett [1957] 1 All ER 621 26.50, 26.51, 26.71
- Corcoran v Corcoran [1974] VR 164 12.13, 12.16
- Cordoba Shipping Co Ltd v National State Bank (The Albaforth) [1984] 2 Lloyd's Rep 91 3.67
- Corin v Corin (1991) 7 SR (WA) 124 13.34, 13.36, 28.5, 28.14, 28.15
- Cornelius v Banque Franco-Serbe [1941] 2 All ER 728 22.32, 22.34
- Corvetina Technology Ltd v Clough Engineering Ltd (2004) 183 FLR 317 43.11, 43.21
- Corvisy v Corvisy [1982] 2 NSWLR 557 3.113
- Costa Vraca Pty Ltd v Bell Regal Pty Ltd [2003] FCAFC 305 3.77
- Coupland v Arabian Gulf Oil Co [1983] 2 All ER 434 20.36
- v Arabian Gulf Oil Co [1983] 3 All ER 226 20.36
- Courageous Colocotronis, The [1979] WAR 19 8.12
- Couzens v Negri [1981] VR 824 3.121
- Cox v Journeaux (1934) 52 CLR 282 5.2
- Crandell v Servier Laboratories (Aust) Pty Ltd [1999] FCA 1461 6.9
- Cranstown v Johnston (1796) 3 Ves 170; 30 ER 952 3.126
- Credit Lyonnais v NH Insurance Co [1997] 2 Lloyd's Rep 1 19.33
- Credit Suisse Financial Products v Societe Generale d'Enterprises [1997] CLC 16 7.23
- Crick v Hennessy [1973] WAR 74 40.22, 41.14, 41.16