

LEGAL PROFESSION ADMISSION BOARD

SEPTEMBER 2013

AUSTRALIAN CONSTITUTIONAL LAW

Time: Three Hours This paper consists of **six** questions.

Candidates are required to attempt any **four** questions.

No question is compulsory.

All questions are of equal value.

If a candidate answers more than the specified number of questions, only the first **four** questions attempted will be marked.

All questions may be answered in one examination booklet.

Each page of each answer must be numbered with the appropriate question number.

Candidates must indicate which questions they have answered on the front cover of the first examination booklet.

Candidates must write their answers clearly. Lack of legibility may lead to a delay in the candidate's results being given and could, in some circumstances, result in the candidate receiving a fail grade.

This examination is worth 80% of the total marks in this subject.

Permitted Materials: This is a closed book examination. No materials are permitted in the examination room.

Attached to this paper is a copy of the Law Extension Committee's Case List and the Course Outline incorporating appropriate excerpts from the Constitution.

As some instances of cheating and of bringing unauthorised material into the examination room have come to the attention of the Admission Board, candidates are warned that such conduct will result in instant expulsion from the examination and may result in exclusion from all further examinations.

This examination should not be relied on as a guide to the form or content of future examinations in this subject.

Question 1

The Commonwealth Government is concerned that the Japanese Government is considering banning the importation of Australian beef due to the extensive use of chemicals by Australian beef producers and the time delays occurring within Australian abattoirs. Following discussions with the relevant authority in Japan the Commonwealth Government introduces the *Quality of Beef Act 2012* which provides as follows:

- (a) No beef may be exported from Australia without being tested and certified as having been fed on pesticide free pastures;
- (b) Abattoirs within Australia must slaughter cattle within 8 hours of arrival at the abattoir,
and
- (c) Any breach of these provisions is an offence liable to a maximum penalty of \$200,000.

Handler's, a partnership business, has conducted an abattoir for many years in New South Wales and it sells all its beef to agents in New South Wales. Handler's does not know if any of its beef is sold to Japan.

In breach of provision (b) Handler's has continued to slaughter cattle up to 24 hours after the cattle have arrived at its premises.

A Commonwealth Inspector visited Handler's premises in New South Wales and found evidence that it had slaughtered cattle in breach of provision (b) and is now prosecuting Handler's. The Commonwealth is seeking the maximum penalty.

Handler's seeks your advice on the validity of (a), (b) and (c) in the *Quality of Beef Act 2012* and whether it is liable under the statute for failing to comply with (b).

(Question 2 follows)

Question 2

The Commonwealth Government is concerned about the future of motor manufacturing in Australia. In addition Ford Australia has announced the closure of its production plant in Geelong, Victoria and the Commonwealth Government is anxious to assist the skilled workers from that production plant to obtain alternative employment in the region. To achieve these outcomes the Commonwealth Government proposes to introduce the *Car Manufacturers Incentive Legislation 2013* which provides:-

- (i) where motor vehicles are manufactured in Australia the employer shall receive a tax deduction for each worker engaged by the employer in an amount of 150% of the wages paid to the worker;
- (ii) where an employer within a radius of 30 kilometers of Geelong, Victoria, engages for work a worker who has been previously engaged in Geelong by Ford Australia that employer shall, for a period of two years, receive a tax deduction equal to 150% of the wage paid to the worker;
- (iii) provision is then made for the lodging of returns under the statute, for the assessment and payments in respect of the deductions and for offences in respect of claims.

Advise the Commonwealth Government whether it can validly introduce this law.

Question 3

In August 1980 the Commonwealth Government signed the International Covenant on Civil and Political Rights. In December 1991 it signed the first Optional Protocol to the Covenant which permits Australians to lodge with the United Nations Human Rights Committee (UNHRC) complaints about alleged violations of the Covenant. T, a Tasmanian student lodged the first such complaint in respect of the *Tasmanian Criminal Code*.

The UNHRC found in favour of T and declared the *Tasmanian Criminal Code*, which made sodomy between consenting adults a criminal offence, violated Article 17 of the Covenant, on the ground that it involved an arbitrary interference with privacy.

The Commonwealth Government seeks your advice on the following matters:-

- (a) Whether a resident of Tasmania charged with an offence of sodomy contrary to the *Tasmanian Criminal Code* can plead by way of defence the declaration of the UNHRC;
- (b) Whether the Commonwealth Government can validly introduce a law referring to the Covenant which simply declares the provisions of the Tasmanian Criminal Code to be null and void;
- (c) Whether a law introduced by the Commonwealth Government, again referring to the Covenant, which guarantees freedom from conviction of any alleged offence involving private sexual conduct between consenting adults will oust the *Tasmanian Criminal Code*.

Advise the Commonwealth Government in respect of (a), (b) and (c).

(Question 4 follows)

Question 4

Assume that the Commonwealth Parliament decides to take action to reform the conduct of union organisations and to this end introduces the *Responsible Union Organisation Court Act 2013*.

The statute creates a new enforcement agency called the Responsible Union Court. The President of the Court is the Chief Judge of the Federal Court of Australia and the two other members of the Court are people with experience in union organisations. All are appointed for a term of seven years. The statute provides that “orders made by this Court shall not be challenged or called into question in any court of law”.

The work of the Court is to educate and supervise union organisations to achieve good governance within the sector. The Court is given wide ranging powers to investigate union organisations by requiring it to answer questions and produce documents and in the last resort the Court is given power to enter the offices of the union organisation and seize documents.

Failure to comply with orders can result in the imposition of substantial penalties. The statute provides that proceedings to collect the penalty have to be taken before a single judge of the Federal Court of Australia.

After examining the affairs of a union organisation the Court if it considers it “appropriate” can make “orders” directing the union organisation to change its conduct. When coming to the decision to make an “order” against a union organisation the Court is to have regard to the “public interest”, the “interests of its members” and the “standards applied by the Australian Securities and Investments Commission to publicly listed corporations”.

The Court has investigated the conduct of the Health Union and is satisfied that the internal arrangements for the use of credit cards by various personnel within that union organisation has not been “appropriate” and makes various orders against the Health Union including setting a limit of \$15,000 credit for any credit card. It also makes an order that only 3 members of the executive team can be issued with a credit card facility.

The Health Union contends that this order renders its business unworkable in particular because the executive team will usually be located in Melbourne and expenditure will occur in other parts of Australia. The Health Union advises you that these orders were made without the Health Union being given an opportunity to make any submission in respect of an order that would alter its credit card facilities.

The Health Union has sought your advice on:-

- (a) The validity of the Responsible Union Court;**
- (b) The reason that collection of penalties has to be by proceedings commenced in the Federal Court of Australia;**
- (c) Whether it can seek relief in the High Court in respect of the orders made against it by the Responsible Union Court.**

(Question 5 follows)

Question 5

The fishery business in Western Australia has discovered a rare kind of 'white shell' lobster. The white shell lobster is harvested for its meat and shell. When harvested it is sold to fish processors in Western Australia who sell both the meat and the shells. The white shells are used by the jewellery industry.

The white shell lobster is rare and it is a limited natural resource so the Western Australian government is anxious to prevent it from being harvested to excess. The Western Australia government passes the *Lobster Fisheries Act 2012* which introduces a licensing system for the harvesting of the white shell lobster. The licence fee is fixed at \$10,000 per tonne authorised to be taken.

The statute also licenses traders in the shells for a fixed fee of \$500 and 30% of the value of what the licensee sells in the preceding month but one for which the licence is issued. It is compulsory to hold a shell trader's licence in order to sell the white lobster shells. Apart from the licence system the white lobster shell traders must belong to a *White Lobster Shell Traders Society* and pay annually to that society \$5 per kilogram of white lobster shells sold. These funds are to be used by the Society for the welfare of the white lobster shell traders.

X, a Western Australia fisher objects to the licensing system imposed on the harvesting of the white shell lobster and consults you about whether the licensing system is valid.

Y, who trades in white lobster shells, seeks your advice about the licensing system imposed on the shell traders and the obligation to contribute to the Shell Traders Society.

Advise X and Y.

(Question 6 follows)

Question 6

Assume that regulations made under the New South Wales Fire Safety Act 2009 provide to the effect that any person in charge of premises frequented by members of the public must ensure that the premises are equipped with a specified minimum number of fire extinguishers. Severe penalties apply for infringement.

To conduct a federal election in 2010 the Commonwealth Government appointed an electoral officer to enter into licence agreements with the owners of various buildings around Australia which were then used as polling booths for that election. One building that was considered appropriate was not usually used by the public but when inspected it was found to be suitable and this building was then made the subject of a licence agreement. The building did not have fire extinguishers.

The building was used as a polling booth on election day and at all material times there were no fire extinguishers in the building.

The Commonwealth electoral officer has been prosecuted for breach of the *New South Wales Fire Safety Act* and the regulations made under the Act.

The electoral officer seeks your advice on his liability for the penalty which is a substantial sum.

END OF PAPER

COURSE OUTLINE

Introduction

1. The *Constitution*

General considerations

Approaches to interpretation and characterisation:-

- a. scope of head of power
- b. characterisation
- c. restrictions

Federal powers

2. Trade and commerce power: *Constitution*, s 51(i)

s 51: "The Parliament shall, subject to this Constitution, have power to make laws for the peace order and good government of the Commonwealth with respect to:

(i) Trade and commerce with other countries, and among the States."

- a. Understanding what is "trade and commerce"
- b. Overseas trade and commerce
- c. Interstate trade and commerce
- d. Regulation of intrastate trade and commerce

3a. Taxation power: *Constitution*, s 51(ii)

s 51: "The Parliament shall, subject to this Constitution, have power to make laws for the peace order and good government of the Commonwealth with respect to:

...

(ii) taxation; but so as not to discriminate between States or parts of States: ..."

- a. Identification of tax
- b. Characterisation of tax laws
- c. Revenue or regulation
- d. Meaning of discrimination and preference

3b. Provisions in taxation laws: *Constitution*, s 55

s 55: Tax Bills "Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only."

- a. Operation of the two limbs of s 55
- b. Consequences of breach of s 55

4. Corporations power: *Constitution*, s 51(xx)

s 51: "The Parliament shall, subject to this Constitution, have power to make laws for the peace order and good government of the Commonwealth with respect to:

...

(xx) foreign corporations, and trading and financial corporations formed within the Commonwealth:”

- a. Identification of corporation as “trading” and/or “financial” corporation
- b. Ambit of power
- c. Incorporation case
- d. Liquidation
- e. Incidental scope of power

5. External affairs power: **Constitution, s 51(xxix)**

s 51: “The Parliament shall, subject to this Constitution, have power to make laws for the peace order and good government of the Commonwealth with respect to:

...

(xxix) External affairs: ...”

- a. Matters within "external affairs"; relations with other countries; matters external to Australia; international law
- b. Treaties and Conventions
- c. Subject matter of treaty; historically the differing views
- d. Implementing the treaty into municipal law
- e. Obligations and/or recommendations
- f. Relationship between treaty and municipal law
- g. Possible limitations
- h. Matters of international concern

6. Separation of powers

s 1: “The legislative power of the Commonwealth shall be vested in a Federal Parliament...”

s 61: “The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen’s representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.”

s 71: “The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction”

Boilermakers’ case and its significance: **Constitution, s 71**

Executive power of the Commonwealth: **Constitution, s 61**

- a. General considerations
- b. Width of power to delegate legislative authority to executive

7. Judicial power of the Commonwealth: **Constitution, s 71**

s 71: “The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction”

s 72: “...The Justices of the High Court and of the other courts created by Parliament –

- (i) Shall be appointed by...
- (ii) Shall not be removed ...
- (iii) Shall receive such remuneration...

The appointment of a Justice of the High Court shall be for a term expiring upon his attaining the age of seventy years, and a person shall not be appointed as a Justice of the High Court if he has attained that age.

The appointment of a Justice of a court created by the Parliament shall be for a term expiring upon his attaining the age that is, at the time of his appointment, the maximum age for Justices of that court and a person shall not be appointed as a Justice of such a court if he has attained the age that is for the time being the maximum age for Justices of that court.

Subject to this section, the maximum age for Justices of any court created by the Parliament is seventy years.

The Parliament may make a law fixing an age that is less than seventy years as the maximum age for Justices of a court created by Parliament and may at any time repeal or amend such a law, but any such repeal or amendment does not affect the term of office of a Justice under appointment made before the repeal or amendment. ...”

- a. Identification of judicial power of the Commonwealth.
- b. Factors to distinguish it from non-judicial power
- c. Exceptions to *Boilermakers* – power to delegate; designated person rule; other exceptions
- d. Significance of *Boilermakers*
- e. Practical consequences of separation of powers

The judicature: Constitution, Ch III

8. Federal jurisdiction: Constitution, s 71

- a. Nature of "federal jurisdiction"
- b. Nature of "matter"

High Court's appellate jurisdiction: Constitution, s 73

s 73: “The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences-

- (i) *Of any Justice or Justices exercising the original jurisdiction of the High Court;*
- (ii) *Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council;*
- (iii) *Of the Inter-State Commission, but as to questions of law only;*

and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.”

- a. Prerequisites for s 73 jurisdiction
- b. Parliamentary power to make exceptions and regulate

High Court's original jurisdiction: *Constitution*, s 75(iii) and s 75(v); s 76(76(ii))

s 75: "In all matters ...

(iii) *In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party ... the High Court shall have original jurisdiction.*

...

(v) *In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth ... the High Court shall have original jurisdiction."*

s 76: "The Parliament may make laws conferring original jurisdiction on the High Court in any matter ...

(i) *Arising under this Constitution or involving its interpretation.*

(ii) *Arising under any laws made by the Parliament."*

a. Sections 75-76 specialised original jurisdiction

b. "Commonwealth" or person within extended phrase "being sued . . ." in s 75(iii)

c. "Officer of the Commonwealth" and relevant remedies under s 75(v)

d. Matter "arising under or involving the interpretation of the *Constitution*" within s 76(i)

e. When a matter "arises" within s 76(ii)

Power to define jurisdiction: *Constitution*, s 77

s 77: "With respect to any of the matters mentioned in the last two sections the Parliament may make laws:

(i) *Defining the jurisdiction of any federal court other than the High Court:*

(ii) *Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is vested in the courts of the States:*

(iii) *Investing any Court of a State with federal jurisdiction."*

a. "Any court of a State"

b. Role of administrative officers and implications of *Harris v Caladine*

c. Repository of federal judicial power - *Kable v DPP*

Prohibitions

9a. Prohibition of a State from imposing duties of excise etc: *Constitution*, s 90

s 90: "On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive ..."

a. "Excise duty"

b. What is a duty of excise? The history.

c. What is excluded?

d. Reason s90 included in Constitution

e. The *Dennis Hotels* anomaly and restrictions on it

f. The broad view has triumphed

9b. "Absolute freedom" of trade, commerce and intercourse: *Constitution*, s 92:

s 92: "On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free..."

- a. The fresh start to the interpretation of s 92 in *Cole v Whitfield*
- b. The application of the fresh start
- c. Absolutely free and legitimate local interest
- d. Marketing legislation

Implied freedoms

10a. The implied freedom of communication

- a. Freedom of political discussion
- b. The *Lange* modifications
- c. Broad view of political discussion

Federalism

11. Inconsistency between Commonwealth and State laws: *Constitution*, s 109

s 109: "When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid."

- a. "Laws"
- b. "Invalid"
- c. "Inconsistency"

12. Commonwealth-State relations

- a. Power of the Commonwealth and the States to make laws binding on each other
- b. Commonwealth regulation of States
- c. State regulation of Commonwealth
- d. Does Commonwealth have any general immunity?
- e. Commonwealth subjecting itself to State laws

CASE LIST**1. Introduction**

Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (“Engineers’ Case”) (1920) 28 CLR 129

Leask v Commonwealth (1996) 187 CLR 579

Melbourne Corporation v Commonwealth (“Melbourne Corporation Case”) (1947) 74 CLR 31

Murphyores Inc Pty Ltd v Commonwealth (1976) 136 CLR 1

Austin v Commonwealth (2003) 215 CLR 185

2. Trade and commerce power: Constitution, s 51(i)

A-G (WA) v Australian National Airlines Commission (“Ansett Transport Industries Case”) (1976) 138 CLR 492

Airlines of New South Wales v New South Wales (No 2) (“Second Airlines Case”) (1965) 113 CLR 54

Australian National Airways v Commonwealth (1945) 71 CLR 29

Huddart Parker v Commonwealth (1931) 44 CLR 492

Murphyores Inc v Commonwealth (1976) 136 CLR 1

O’Sullivan v Noarlunga Meat (1954) 92 CLR 565

R v Foster: ex parte Eastern and Australian Steamship Co (1959) 103 CLR 256

Redfern v Dunlop Rubber Australia (“Redfern’s Case”) (1964) 110 CLR 194

Wragg v New South Wales (1953) 88 CLR 353

3a. Taxation power: Constitution, s 51(ii)

Air Caledonie International v Commonwealth (1988) 165 CLR 462

Austin v Commonwealth (2003) 215 CLR 185

Australian Tape Manufacturers Association v Commonwealth (“Blank Tape Royalty Case”) (1993) 176 CLR 480

Elliott v Commonwealth (1936) 54 CLR 657

Fairfax v FCT (1965) 114 CLR 1

Harper v Minister for Sea Fisheries (1989) 168 CLR 314

Logan Downs v FCT (1965) 112 CLR 177

Northern Suburbs General Cemetery Reserve Trust v Commonwealth (“Training Guarantee Case”) (1993) 176 CLR 555

Osborne v Commonwealth (1911) 12 CLR 321

Pape v Federal Commissioner of Taxation (2009) 238 CLR 1

R v Barger (1908) 6 CLR 41

Roy Morgan Research Pty Ltd v Commissioner of Taxation (2011) 244 CLR 97

South Australia v Commonwealth (First Uniform Tax Case) (1942) 65 CLR 373

Victoria v Commonwealth (Second Uniform Tax Case) (1957) 99 CLR 575

3b. Provisions in taxation laws: Constitution, s 55

Air Caledonie International v Commonwealth (1988) 165 CLR 462
Australian Tape Manufacturers Association v Commonwealth (1993) 176 CLR 480
Cadbury-Fry-Pascall v FCT (1944) 70 CLR 362
Collector of Customs (NSW) v Southern Shipping Co (1962) 107 CLR 279
Luton v Lessels (2002) 210 CLR 333
Permanent Trustee Australia Pty Ltd v Commissioner of State Revenue (2004) 220 CLR 388 (pars 55-74)
Re Dymond (1959) 101 CLR 11
State Chamber of Commerce and Industry v Commonwealth (Fringe Benefits Tax Case) (1987) 163 CLR 329

4. Corporations power: Constitution, s 51(xx)

Actors and Announcers Equity Association of Australia v Fontana Films ("Actors Equity Case") (1982) 150 CLR 169
Commonwealth v Tasmania ("Tasmanian Dam Case") (1983) 158 CLR 1
Re Dingjan; ex parte Wagner ("Dingjan's Case") (1995) 183 CLR 323
Fencott v Muller (1983) 152 CLR 570
New South Wales v Commonwealth ("Incorporation Case") (1990) 169 CLR 482
New South Wales v Commonwealth; Western Australia v Commonwealth (2006) 229 CLR 1 ("Work Choices Case")
R v Australian Industrial Court: ex parte C L M Holdings (1977) 136 CLR 235
R v Federal Court of Australia: ex parte Western Australian National Football League ("Adamson's Case") (1979) 143 CLR 190
State Superannuation Board v Trade Practices Commission (1982) 150 CLR 282
Strickland v Rocla Concrete Pipes ("Concrete Pipes Case") (1971) 124 CLR 468
Victoria v Commonwealth ("Industrial Relations Act Case") (1996) 187 CLR 416

5. External affairs power: Constitution, s 51(xxix)

Airlines of New South Wales v New South Wales (No 2) ("Airlines No 2") (1965) 113 CLR 54
Bradley v Commonwealth (1973) 128 CLR 557
Commonwealth v Tasmania ("Tasmanian Dam Case") (1983) 158 CLR 1
Koowarta v Bjelke-Petersen (1982) 153 CLR 168
New South Wales v Commonwealth ("Seas and Submerged Lands Act Case") (1975) 135 CLR 337
Pape v Federal Commissioner of Taxation (2009) 238 CLR 1
Polyukhovich v Commonwealth ("War Crimes Act Case") (1991) 172 CLR 501
Queensland v Commonwealth ("Tropical Rainforest Case") (1989) 167 CLR 232
R v Burgess: ex parte Henry (1936) 55 CLR 608
R v Poole: ex parte Henry (No 2) (1939) 61 CLR 634
Richardson v The Forestry Commission (1988) 164 CLR 261
Victoria v Commonwealth ("Industrial Relations Act Case") (1996) 187 CLR 416

6a. Executive power Constitution, s 61

Pape v Federal Commissioner of Taxation (2009) 238 CLR 1
Victorian Stevedoring and General Contracting Co and Meakes v Dignan (1931) 46 CLR 73
Williams v Commonwealth (2012) 86 ALJR 713

6b. Separation of powers: Constitution, s 71

Harris v Caladine (1991) 172 CLR 84

Hilton v Wells (1985) 157 CLR 57

R v Joske: ex parte Australian Building Construction Employees and Builders Labourers Federation (1974) 130 CLR 87

The Boilermakers Case (1956) 94 CLR 254; (1957) 95 CLR 529

Waterside Workers Federation of Australia v J W Alexander (1918) 25 CLR 434

Wilson v Minister for Aboriginal and Torres Strait Islander Affairs (1996) 189 CLR 1

7. Judicial power of the Commonwealth: Constitution, s 71

Attorney-General (Cth) v Breckler (1999) 197 CLR 83

Attorney-General (Cth) v Alinta (2008) 233 CLR 542

Brandy v Human Rights and Equal Opportunity Commission ("Brandy's Case") (1995) 183 CLR 245

Cominos v Cominos (1972) 127 CLR 588

Farbenfabriken Bayer Aktiengesellschaft v Bayer Pharma (1959) 101 CLR 652

Huddart Parker v Moorehead (1909) 8 CLR 330

Lane v Morrison (2009) 239 CLR 230

Precision Data Holdings v Wills (1991) 173 CLR 167

R v Commonwealth Industrial Court: ex parte Amalgamated Engineering Union Australian Section ("Shearer's Case") (1960) 103 CLR 368

R v Davison (1954) 90 CLR 353

R v Joske: ex parte Australian Building Construction Employees and Builders Labourers Federation (1974) 130 CLR 87

R v Quinn: ex parte Consolidated Foods (1977) 138 CLR 1

R v Spicer: ex parte Australian Builders Labourers Federation (1957) 100 CLR 277

R v Spicer: ex parte Waterside Workers Federation of Australia (1957) 100 CLR 312

R v Trade Practices Tribunal: ex parte Tasmanian Breweries (1970) 123 CLR 361

Re Tracey: ex parte Ryan (1989) 166 CLR 518

Rola Co (Australia) v Commonwealth (1944) 69 CLR 185

Thomas v Mowbray (2007) 233 CLR 307

8a. Courts and federal jurisdiction: Constitution, s 71

R v Bevan: ex parte Elias (1942) 66 CLR 452

In re Judiciary and Navigation Acts (1921) 29 CLR 257

Re Wakim; ex parte McNally (1999) 198 CLR 511

R v Hickman; ex parte Fox and Clinton (1945) 70 CLR 598

The Marriage Act Case (1962) 107 CLR 529

8b. High Court's appellate jurisdiction: Constitution, s 73

Cockle v Isaksen (1957) 99 CLR 155

Mellifont v A-G (Q) (1991) 173 CLR 289

O'Toole v Charles David (1990) 171 CLR 232

Smith Kline and French Laboratories (Australia) v Commonwealth (1991) 173 CLR 194

8c. High Court's original jurisdiction: Constitution, ss 75, 76**(1) Section 75(iii)**

Bank of New South Wales v Commonwealth (1948) 76 CLR 1
Inglis v Commonwealth Trading Bank (1969) 119 CLR 334
R v Collins: ex parte ACTU-Solo Enterprises (1976) 50 ALJR 471
Repatriation Commission v Kirkland (1923) 32 CLR 1
Toowoomba Foundry v Commonwealth (1945) 71 CLR 545

(2) Section 75(v)

Bodruddaza v Minister for Immigration and Multicultural Affairs (2007) 228 CLR 651
Plaintiff S157/2002 v Commonwealth of Australia (2003) 211 CLR 476
R v Cook; ex parte Twigg (1980) 147 CLR 15
R v Drake-Brockman: ex parte National Oil (1943) 68 CLR 51
R v Murray: ex parte Commonwealth (1916) 22 CLR 437
Re Refugee Review Tribunal; Ex parte Aala (2000) 204 CLR 82

(3) Section 76(i)

A-G (NSW) v Commonwealth Savings Bank (1986) 160 CLR 315
James v South Australia (1927) 40 CLR 1

(4) Section 76(ii)

Felton v Mulligan (1971) 124 CLR 367
R v Commonwealth Court of Conciliation and Arbitration: ex parte Barrett (1945) 70 CLR 141
Watson v FCT (1953) 87 CLR 353

8d. Investing State courts with federal jurisdiction: Constitution, s 77(iii)

Commonwealth v Hospital Contribution Fund of Australia (1982) 150 CLR 49
Harris v Caladine (1991) 172 CLR 84 (**s77(ii)**)
Kable v Director of Public Prosecutions NSW (1996) 189 CLR 51

9a. Duties of excise: Constitution, s 90

Capital Duplicators v Australian Capital Territory (No 2) (1993) 178 CLR 561
Dennis Hotels v Victoria (1960) 104 CLR 529
Dickenson's Arcade v Tasmania (1974) 130 CLR 177
Gosford Meats v New South Wales (1985) 155 CLR 368
Ha v New South Wales (1997) 189 CLR 465
H C Sleigh v South Australia (1977) 136 CLR 475
Harper v Victoria (1966) 114 CLR 361
Hematite Petroleum v Victoria (1983) 151 CLR 599
Logan Downs v Queensland (1977) 137 CLR 59
Matthews v Chicory Marketing Board (Victoria) (1938) 60 CLR 263
Parton v Milk Board (Victoria) (1949) 80 CLR 263

9b. Freedom of inter-state trade: Constitution, s 92

Barley Marketing Board (NSW) v Norman (1990) 171 CLR 182
Bath v Alston Holdings (1988) 165 CLR 411
Befair Pty Ltd v Western Australia (2008) 234 CLR 418
Castlemaine Tooheys v South Australia (1990) 169 CLR 436
Cole v Whitfield (1988) 165 CLR 360
Sportsbet Pty Ltd v New South Wales [2012] HCA 13 (2012) 86 ALJR 446

10. Implied freedoms

Aust Capital Television v Commonwealth (No 2) (1992) 177 CLR 106
Coleman v Power (2004) 220 CLR 1
Lange v Australian Broadcasting Corp (1997) 189 CLR 520
Nationwide News v Wills (1992) 177 CLR 1
Wotton v State of Queensland (2012) 246 CLR 1

11. Inconsistency of laws: Constitution, s 109

Airlines of New South Wales v New South Wales (No 2) ("Second Airlines Case") (1965) 113 CLR 54
Ansett Transport Industries (Operations) v Wardley (1980) 142 CLR 237
Clyde Engineering Co v Cowburn (1926) 37 CLR 466
Colvin v Bradley Bros (1943) 68 CLR 151
Commercial Radio Coffs Harbour v Fuller (1986) 161 CLR 47
Dickson v The Queen (2010) 241 CLR 491
Ex parte McLean (1930) 43 CLR 472
O'Sullivan v Noarlunga Meat (1954) 92 CLR 565
R v Credit Tribunal: ex parte General Motors Acceptance Corporation, Australia (1977) 137 CLR 545
Viskauskas v Niland (1983) 153 CLR 280
Wenn v A-G (Vic) (1948) 77 CLR 84
Wollongong University v Metwally (1984) 158 CLR 447

12. Commonwealth – State relations

Amalgamated Society of Engineers v The Adelaide Steamship Co ("Engineers Case") (1920) 28 CLR 129
Austin v Commonwealth (2003) 215 CLR 185
Australian Coastal Shipping Commission v O'Reilly (1962) 107 CLR 46
Clarke v Federal Commissioner of Taxation (2009) 258 CLR 272
Commonwealth v Cigamatic (1962) 108 CLR 372
Commonwealth v Tasmania ("Tasmanian Dam Case") (1983) 158 CLR 1
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