

# Citator Document

## important design improvements...

User research results were passed on to editors and product managers who then shared them with the ux team suggesting mockup improvements.

On this occasion i have worked closely with the editor on improving usability of these tables.

Font sizes are subject to change for future iterations.

- 1) clearly defined sections and table heads
- 2) sorting and filtering
- 3) improved readability with line-height, white space, font size, colours.
- 4) Combined two or more columns based on input from editor so as to improve readability
- 5) In some cases adding clear sections, catchwords, improving blockquotes, lists, headings and subheadings, citation links to improve usability and quick scanning.

# **Original** Lexis Library Document

Original Lexis Library Document.  
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Judgment Date: 2/3/1996
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Constitutional law — Separation of powers — Judicial power — Dominant purpose

All Pacific Content Stream Elements
Boilermakers' Society of Australia's (BSA) breached industrial award.

not in accordance with constitutional prerogative of separation of powers
Whether purported exercise of judicial powers ancillary to dominant purpose of CCA.

Whether purported exercise of the Commonwealth of Australia authorised legislature to establish tribunal functioning as industrial arbitrator and exerciser of judicial power of Commonwealth.

not in accordance with constitutional prerogative of separation of powers
Held: Order nisi made absolute (4:3).

Purported exercise of judicial powers made ultra vires to purpose of CCA.
Chapter III of Constitution did not make body established for purposes foreign to judicial power, notwithstanding organisation as court and in manner which might otherwise satisfy Constitution ss 71 and 72, to exercise judicial power.

Purported exercise of judicial power not in accordance with constitutional prerogative of separation of powers.

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**R v Kirby; Ex parte Boilermakers' (Boilermakers' case)** (Copy citation)  
(1956) 94 CLR 254; (1956) ALR 163; (1956) 29 ALJR 658; BC5600120

**Court:** High Court of Australia  
**Judges:** Dixon, McTiernan, Williams, Webb, Fullagar, Kitto and Taylor  
**Judgement Date:** 2 March 1956

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**Constitutional law — Separation of powers — Judicial power — Dominant purpose**

Return of order nisi for prohibition.

Boilermakers' Society of Australia's (BSA) breached industry award.

in the circumstances of the case, the moving figure as seen on the television screen constituted the use of a device deceptively similar to the respondent's registered mark.

Whether purported exercise of judicial powers ancillary to dominant purpose of CCA.

in the circumstances of the case, the moving figure as seen on the television screen constituted the use of a device deceptively similar to the respondent's registered mark.

Whether CCA's purported exercise of judicial powers contrary to constitutional prerogative of separation of powers.

*Held:* Order nisi made absolute (4:3).

Purported exercise of judicial powers made ultra vires to purpose of CCA.

in the circumstances of the case, the moving figure as seen on the television screen constituted the use of a device deceptively similar to the respondent's registered mark.

Purported exercise of judicial power not in accordance with constitutional prerogative of separation of powers.

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| Affirmed   | <b>Attorney-General (Cth) v R (The Boilermakers Case)</b><br>(1957) 95 CLR 529; [1957] AC 288; [1957] ALR 489; (1957) 30 ALJR 638; [1957] 2 All ER 45; [1957] 2 WLR 607; BC5700080 | UKPC  | 19/3/1957 | ⊘      |

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| Applied       |   | FamCA | 18/4/2012  | ⊘      |
| Considered    | <b>Birdon Pty Ltd v Houben Marine Pty Ltd</b><br>(2011) 197 FCR 25; [2011] 123 ALD 447; [2011] 283 ALR 39; [2011] FCAFC 126; BC201107908                              | FCA   | 13/10/2011 | ⊘      |
| Considered    | <b>Momcilovic v R</b><br>(2011) 280 ALR 221; (2011) 85 ALJR 957; [2011] HCA 34; BC201106881   | HCA   | 8/9/2011   | ⊘      |
| Cited         | <b>PJB v Melbourne Health; Patrick's Case</b><br>[2011] VSC 327; BC201105182  | VSC   | 19/7/2011  | ⊘      |
| Considered    | <b>Wainohu v State of New South Wales</b><br>(2011) 243 CLR 181; [2011] 278 ALR 1; (2011) 85 ALJR 746; [2011] HCA 24; BC201104388                                     | HCA   | 23/6/2011  | ⊘      |
| Cited         | <b>Sneddon v Speaker of the Legislative Assembly</b><br>[2011] NSWSC 508; BC201103780   | NSWSC | 2/6/2011   | ⊘      |
| Considered    | <b>ECH Inc v Halliday</b><br>(2011) 192 FCR 281; (2011) 207 IR 76; [2011] FCAFC 51; BC201102008   | FCA   | 13/4/2011  | ⊘      |
| Cited         | <b>Hogan v Hinch</b><br>(2011) 243 CLR 506; [2011] 275 ALR 408; (2011) 85 ALJR 398; [2011] HCA 4; BC201101056   | HCA   | 10/3/2011  | ⊘      |
| Considered    | <b>State of South Australia v Totani</b><br>(2010) 242 CLR 1; [2010] 271 ALR 662; (2010) 85 ALJR 19; (2010) 201 A Crim R 11; [2010] HCA 39; BC201008388               | HCA   | 11/11/2010 | ⊘      |
| Cited         | <b>Owen v Menzies</b><br>(2010) 243 FLR 357; [2010] QSC 387; BC201007617  | QSC   | 18/10/2010 | ⊘      |
| Cited         | <b>Bobart, Re</b><br>[2010] 88 IPR 357; [2010] ATMO 43  | ATMO  | 12/6/2010  | ⊘      |
| Considered    | <b>Welsh v Allblend Holdings Pty Ltd (No 2)</b><br>(2010) 239 FLR 234; (2010) 195 IR 216; [2010] FMCA 377; BC201003875  | FMCA  | 4/6/2010   | ⊘      |
| Considered    | <b>Telstra Corp Ltd and Dept of Broadband, Communications and the Digital Economy, Re</b><br>(2010) 113 ALD 623; [2010] AATA 118; BC201000521                         | AATA  | 15/2/2010  | ⊘      |
| Cited         | <b>Laurie v Child Support Registrar</b><br>[2009] FamCAFC 183; BC200951308  | FamCA | 12/10/2009 | ⊘      |
| Applied       | <b>Lane v Morrison</b><br>(2009) 239 CLR 230; [2009] 258 ALR 404; (2009) 83 ALJR 993; [2009] HCA 29; BC200907723  | HCA   | 26/8/2009  | ⊘      |
| Cited         | <b>R v Ironside</b><br>(2009) 104 SASR 54; [2009] 256 ALR 533; (2009) 231 FLR 78; (2009) 263 LSJS 275; (2009) 195 A Crim R 483; [2009] SASC 151; BC200904780          | SACCA | 3/6/2009   | ⊘      |
| Distinguished | <b>Kotzmann v Adult Parole Board Victoria</b><br>[2008] VSC 356; BC200808057  | VSC   | 15/9/2008  | ⊘      |
| Applied       | <b>Hussain v Minister for Foreign Affairs</b><br>(2008) 169 FCR 241; [2008] 103 ALD 66; [2008] 248 ALR 456; (2008) 48 AAR 304; [2008] FCAFC 128; BC200805498          | FCA   | 15/7/2008  | ⊘      |
| Cited         | <b>MZXOT v Minister for Immigration and Citizenship</b><br>(2008) 233 CLR 601; [2008] 102 ALD 459; [2008] 247 ALR 58; (2008) 82 ALJR 1061; [2008] HCA 28; BC200804501 | HCA   | 18/6/2008  | ⊘      |

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| <b>A Modern Renaissance: Industrial Law &amp; Relations Under Federal Wigs</b><br>(1992) 14 SydLR 401        | ⊘      |
| <b>A National Aboriginal Policy?</b><br>(1993) 16 UNSWLJ 45  | ⊘      |
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| <a href="#">Commonwealth of Australia Constitution Act</a>  | § 51(xxxix), § 51(xxxv), § 71, § 72, § 73, § 76(ii), § 77 |
| <a href="#">Conciliation and Arbitration Act 1904 (Cth)</a> | § 29(1)(b), § 29(1)(c), § 29A                             |

## White v White

[2001] 1 AC 596, [2001] 1 All ER 1, [2000] 3 WLR 1571, [2000] 3 FCR 555, [2000] 2 FLR 981, [2001] Fam Law 12, [2000] 43 LS Gaz R 38, [2000] NLJR 1716, 144 Sol Jo LB 266

Court: HL

Judgement Date: 26/10/2000

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**HUSBAND AND WIFE, JOINT PROPERTY AND MATRIMONIAL CAUSES — DIVORCE — FINANCIAL PROVISION — LUMP SUM ORDER — FACTORS TO BE REGARDED — PARTIES TO MARRIAGE IN FARMING PARTNERSHIP — JUDGE MAKING TRANSFER OF ASSETS FROM WIFE TO HUSBAND — WHETHER JUDGE HAVING MISDIRECTED HIMSELF AS TO THE ISSUES - WHETHER WIFE ENTITLED TO EQUAL DIVISION OF NET ASSETS - [MATRIMONIAL CAUSES ACT 1973, S 25](#)**

The parties who were both farmers, were married in 1961 and at the same time entered into an equal farming partnership. In 1994, after 33 years of marriage, the wife left the matrimonial home and petitioned for divorce. Thereafter, both parties applied for ancillary relief under the [Matrimonial Causes Act 1973](#), the wife seeking sufficient capital to set herself up independently in farming elsewhere, and the husband seeking capital adjustment. The judge found that the net total of the parties assets was £4.6m, of which £1.5m belonged to the wife, and considered that the issues he had to determine were, firstly, whether the wife should be entitled to fulfil her desire to continue to farm, and, secondly, whether it was right to make a net transfer of assets from the wife to the husband. He decided the first issue against the wife, holding that her claim to embark on a fresh farming enterprise made little sense, and, capitalising the wife's income needs applying the *Duxbury* guidelines, concluded that it was justifiable that the wife received a lesser sum than the proper value of the assets in her name. In the result, he awarded the wife a lump sum of £800,000 on a clean break basis and on the basis that the husband took the farms and the business. The wife appealed. The Court of Appeal allowed her appeal and increased the amount of her payment to £1.5m. The husband appealed seeking the restoration of the judge's order and the wife cross appealed seeking an order giving her an equal share in all the assets.

*Held* — The appeals would be dismissed. The purpose of the powers granted pursuant to [s 25](#) of the Matrimonial Causes Act 1973 was to enable the court to make fair financial arrangements on or after divorce in the absence of agreement between the former spouses. As a general guide, equality should be departed from only if, and to the extent that, there was good reason for doing so. The need to consider and articulate reasons for departing from equality would help the parties and the court to focus on the need to ensure the absence of discrimination. There was nothing, either in the statutory provisions or in the underlying objective of securing fair financial arrangements, to lead to the supposition that the available assets of the respondent husband became immaterial once the claimant wife's financial needs were satisfied. Although on the facts of a particular case there might be a good reason why the wife should be confined to her needs and the husband left with the much larger balance, the mere absence of financial need could not, by itself, be a sufficient reason. Accordingly, financial needs were only one of the factors to be taken into account in arriving at the amount of an award and the judge had to have regard to all the facts of the case and the overall requirements of fairness. In the instant case there was no ground for interfering with the Court of Appeal's exercise of discretion.








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| —                | <b>White v White</b><br><a href="#">[2001] 1 AC 596</a> , <a href="#">[2001] 1 All ER 1</a> , [2000] 3 WLR 1571, <a href="#">[2000] 3 FCR 555</a> , [2000] 2 FLR 981, [2001] Fam Law 12, [2000] 43 LS Gaz R 38, [2000] NLJR 1716, 144 Sol Jo LB 266 | HL      | 26/10/2000 |  |
| <b>Affirming</b> | <b>White v White</b><br><a href="#">[1999] Fam 304</a> , <a href="#">[1998] 4 All ER 659</a> , [1999] 2 WLR 1213, <a href="#">[1998] 3 FCR 45</a> , [1998] 2 FLR 310, [1998] Fam Law 522, <a href="#">[1998] All ER (D) 288</a>                     | CA      | 19/06/1998 |  |

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| <b>Applied</b>    | <b>V v V (prenuptial agreement)</b><br><a href="#">[2011] EWHC 3230 (Fam)</a> , <a href="#">[2012] 2 FCR 98</a> , [2012] 1 FLR 1315, [2012] Fam Law 274, [2012] 04 LS Gaz R 17, <a href="#">[2012] All ER (D) 18 (Jan)</a>   | Fam D   | 21/12/2011 |  |
| <b>Applied</b>    | <b>A v L (departure from equality: needs)</b><br><a href="#">[2011] EWHC 3150 (Fam)</a> , [2012] 1 FLR 985, [2012] Fam Law 395, <a href="#">[2011] All ER (D) 154 (Dec)</a>  | Fam D   | 17/11/2011 |  |
| <b>Considered</b> | <b>BJ v MJ (Financial Remedy: Overseas Trusts)</b><br><a href="#">[2011] EWHC 2708 (Fam)</a> , <a href="#">14 ITELR 572</a> , [2012] 1 FLR 667, [2012] Fam Law 277, <a href="#">[2011] All ER (D) 213 (Nov)</a>  | Fam D   | 27/10/2011 |  |
| <b>Considered</b> | <b>AR v AR (ancillary relief: inheritance)</b><br><a href="#">[2011] EWHC 2717 (Fam)</a> , [2011] 44 LS Gaz R 19, [2011] NLJR 1558, <a href="#">[2011] All ER (D) 241 (Oct)</a>  | Fam D   | 11/08/2011 |  |
| <b>Considered</b> | <b>K v L (Non-matrimonial Property)</b><br><a href="#">[2011] EWCA Civ 550</a> , <a href="#">[2011] 3 All ER 733</a> , [2012] 1 WLR 306, <a href="#">[2011] 2 FCR 597</a> , [2011] 2 FLR 980, [2011] Fam Law 799, [2011] 21 LS Gaz R 18, [2011] NLJR 742, <a href="#">[2011] All ER (D) 124 (May)</a>  | CA      | 13/05/2011 |  |
| <b>Applied</b>    | <b>N v F (Financial Orders: Pre-Acquired Wealth)</b><br><a href="#">[2011] EWHC 586 (Fam)</a> , <a href="#">[2012] 1 FCR 139</a> , [2011] 2 FLR 533, [2011] Fam Law 686, <a href="#">[2011] All ER (D) 96 (Apr)</a>  | Fam D   | 11/03/2011 |  |
| <b>Considered</b> | <b>Radmacher (formerly Granatino) v Granatino (pre-nuptial contract)</b><br><a href="#">[2010] UKSC 42</a> , <a href="#">[2011] 1 AC 534</a> , <a href="#">[2011] 1 All ER 373</a> , [2010] 3 WLR 1367, <a href="#">[2010] 3 FCR 583</a> , [2010] 2 FLR 1900, [2010] Fam Law 1263, [2010] 42 LS Gaz R 18, [2010] NLJR 1491, <a href="#">(2010) Times, 22 October</a> , 154 Sol Jo (no 40) 37, <a href="#">[2011] 2 LRC 660</a> , <a href="#">[2010] All ER (D) 186 (Oct)</a> | SC      | 20/10/2010 |  |

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