

Court Cases

We are constantly coming across court cases that we believe will be of great benefit to many of our members. We are also constantly being sent cases from our members and listeners and David Woods, who we interviewed on 12 August 2014 - you can download the podcast of [that show here](#) - shared with us a number of very valuable case precedents that have been set over the years that people can rely on in various situations.

We have included many of the cases that he mentioned on that show as well as a number of others that we believe will be interest to you. As we come across more cases, we will upload them to this page so be sure to check back regularly.

If you know of any other cases that you think we should know about, please e-mail them through us at feedback@knowyourrightsgroup.com.au with a brief description of why they are relevant as well as a link to the actual case as well.

Traffic Related Cases

The recent matter of [Police v Butcher \[2016\] SASC 130 \(17 August 2016\)](#) is a landmark case from SA which determined that if speed detection devices are not tested in ways that can determine their accuracy within tolerances set by statute - which they aren't - then those devices cannot be relied upon.

The case of [Vico v Car Park Pty Ltd \(Civil Claims\) \[2014\] VCAT 565 \(2 May 2014\)](#) - was covered in our interview with John himself on the 5th of August 2014 - you can download a copy of that [podcast here](#).

That case proves that all private parking fines are illegal and there is some additional legal commentary on that case here - <http://consumeraction.org.au/are-private-car-parks-fines-legitimate/> - that you might also like to read.

The case of [Director of Consumer Affairs Victoria v Parking Patrols Vic Pty Ltd & Anor \[2012\] VSC 137 \(13 April 2012\)](#) is another great case that proves that all private parking fines are illegal.

And here is the [Consumer Affairs Victoria official Press Release](#) regarding that case.

The case of [Hobsons Bay City Council v Viking Group Holdings Pty Ltd \[2010\] VSC 386 \(27 August 2010\)](#) is another interesting case because it shows that a local council cannot charge you court costs, even if you lose if, for example, you are being charged over a so-called "criminal offence" such as a parking fine.

In the [25 November 2011 Supreme Court case of the DPP v Hamilton](#) - Justice Kaye clearly stated that you don't have to stop and speak to police unless you're under arrest.

There is some interesting commentary on that case that you may want to read through here- <http://www.summarycrime.com/2011/11/running-from-police-aint-crime-when-you.html>

And this article details is how it directly applies to motorists

- <http://www.carr.org.au/police%20powers.htm> - which we know is going to be of interest to most people.

In the case of [Lee v NSW Crimes Commission \[2013\] HCA 39 \(9 October 2013\)](#) - Chief Justice French deals with the presumption of innocence against self-incrimination.

Here is a commentary on the case - <http://www.ruleoflaw.org.au/nsw-crime-commission-self-incrimination/> - again explaining why you do not have to answer any questions that may incriminate you.

Another argument that is coming up more and more nowadays is the principle of owner onus, where the Prosecution will try and claim that because you are the registered owner or operator that you are deemed to be guilty of the offence. Well, the [Supreme Court case in the matter of Dolheguy v Becker & Anor](#) explains that principle does NOT always apply - if you know how to argue it correctly and a great commentary on that case can be found here - <http://www.summarycrime.com/2009/04/operator-onus-offences-and-licence.html>

The European Court of Human Rights also addressed similar 'owner onus' laws when they ruled on the [Krumpholz v Austria](#) case, where the court specifically spoke about the right

to silence and the presumption of innocence. This is the case that Darren referred to on our 213th show.

In the case of [Liberato v R \[1985\] HCA 66; \(1985\) 159 CLR 507 \(17 October 1985\)](#) - Justice Brennan made it clear that in any criminal case, the burden of proof is firmly on the Prosecution. So, when a police Prosecutor or some Magistrate tries to tell you about "owner onus" applying because you didn't nominate a driver, you will know how to respond. This is also why the minute that you get on the stand and clearly state "I was not speeding" or "I did come to a complete stop" etc. their case fails because you have introduced reasonable doubt and they have failed to comply with their burden of proof requirements.

Police are not a legal entity

One of our Members sent through a powerful letter from the State Solicitor's Office in WA that confirms that the WA Police - and all other State Police - are not, in fact, legal entities. You can download a copy of that letter via [this link](#).

There is also additional information on this fact in the WA Supreme Court case of [Tey v Plotz](#), where the Judge clearly stated, in a number of sections, that the WA Police - and, subsequently all other State Police - are not a legal entity.

Police Powers

There are two very powerful cases that relate to the powers that police have, and don't have. The first of those is the Supreme Court case in the matter of Regina v Banner, where it was determined that, *"(Police officers) have no power whatever to arrest or detain a citizen for the purpose of questioning him or of facilitating their investigations. It matters not at all whether the questioning or the investigation is for the purpose of enabling them to ascertain whether he is the person guilty of a crime known to have been committed or is for the purpose of enabling them to discover whether a crime has or has not been committed. If the police do so act in purported exercise of such a power, their conduct is not only destructive of civil liberties but it is unlawful."*

The second case is another, more recent Supreme Court case in the 2011 matter of [DPP v Hamilton](#), where it was determined that, *"It is an ancient principle of the Common Law that a person not under arrest has no obligation to stop for police, or answer their questions. And there is no statute that removes that right. The conferring of such a power on a police officer would be a substantial detraction from the fundamental freedoms which have been guaranteed to the citizen by the Common Law for centuries."*

The High Court of Australia has just confirmed the application of the above two cases and determined that Police cannot arrest people solely for the purpose of questioning them and/or without intending to charge them in the 2019 [NSW v Robinson](#) case. You can also find a detailed commentary of that case via [this link](#).

Unlawful arrest

More and more people are starting to challenge the police with their fines, which is great. Many people are doing this at the time that they are being pulled over, which is even better. People are referring to many of the cases on this page that state that you have the right not to incriminate yourself, you have the right not to identify yourself and you do not have to speak to the police unless you are under arrest. We have heard from some people that they are being threatened with arrest if they don't identify themselves and, as this article explains - <http://wrongfularrest.com.au/> - that is unlawful.

Please be sure to refer to the case of [Randall v State of New South Wales](#) - and remind the police of it if they threaten you with unlawful arrest. You may also want to look up the Canadian case of Koechlin v Waugh & Hamilton as well.

The NSW Supreme Court also recently awarded \$3,200 to a NSW man who was unlawfully arrested for just 4 minutes at a train station! Be sure to read the full details of the [Le v State of New South Wales](#) case to find out more.

An aboriginal youth was also recently awarded \$38,072 in compensation and damages after he was unlawfully arrested and assaulted in NSW. The full details of that ruling can be found in the case of [Exton v State of NSW](#). You can read the media article concerning that decision via [this link](#).

In November 2018, a WA couple won a massive \$1.1 million damages after being wrongfully tasered! The battle went on for 10 years but they ultimately won and you can read the full story of their saga [via this link](#) and you can read the court ruling in the matter of [The State of Western Australia v Cunningham](#).

Council Rates Case

On our 112th Show - on the 16th of May 2017 - we interviewed Truckie Rob and he gave us a detailed breakdown of his case against his local council, who were pursuing him for unpaid rates. After numerous adjournments, the council eventually withdrew their case against him and Rob has been kind enough to share with us a copy of all of the documents, legislation and arguments that he relied upon to achieve that incredible result.

Please click the links below to access all of the detailed information he has provided:

[Statement of Facts 1](#), [Statement of Facts 2](#), [Body Corporate Info](#), [Albury City ABN](#), [Notice of Defence](#), [Constitution \(Local Government\) Amendment Act](#), [Attorney General Letter](#), [Council Letter](#)

Public Transport Case

If you haven't yet seen it, we recommend that you read over the following article from The Age newspaper in Melbourne, regarding the fact that Myki fines are failing in court - <http://www.theage.com.au/victoria/myki-fines-fail-in-court-20140929-10nlbk.html> This is great news for anyone challenging any public transport fines and, especially for Victorians, with all the new signs around trying to coerce people into paying smaller on-the-spot amounts rather than larger fines.

Chapter III courts and the validity of certain Acts

In [Lane v Morrison \[2009\] HCA 29 \(26 August 2009\)](#) - Judge Morrison declared that the military tribunal was not in accordance with Chapter III of the Commonwealth Constitution.

And here is the explanation confirming that all courts must comply with Chapter III of the Commonwealth Constitution - http://www.hearsay.org.au/index.php?option=com_content&task=view&id=748&Itemid=48

[South Australia V Totani \[2010\] HCA 39 \(11 November 2010\)](#) - Chief Justice French stated that even Magistrate's Courts must be in accordance with Chapter III of the Commonwealth Constitution.

[Ah Yick v Lehmert \[1905\] HCA 22; \(1905\) 2 CLR 593 \(7 August 1905\)](#) - This case also dictates that jurisdiction is confined to Chapter III courts.

Here is a summary of the case - <http://www.theaustralian.com.au/business/legal-affairs/bikies-face-bumpy-ride-despite-favourable-ruling/story-e6frg97x-1225955985461?nk=776c923bd15ceb42417d44f5665ed56a> - you should compare that to how Infringements Courts and the like issue Enforcement Orders without any evidence and without the opportunity to challenge any evidence etc.

In the case of [Port of Portland v State of Victoria \[2010\] HCA 44 \(8 December 2010\)](#) - all 7 justices confirm the validity of the Imperial Acts Application Act 1980 and the Bill of Rights 1688.

In the case of [Hospital Provident Fund Pty Ltd v Victoria \[1953\] HCA 8; \(1953\) 87 CLR 1 \(11 March 1953\)](#) - Justice Williams talks about Section 2 of the Victorian Acts

Interpretation Act - that all Acts are subject to the Commonwealth Constitution and that a court should ensure the Constitutional validity of an Act.

In [Munday v Gill \[1930\] HCA 20; \(1930\) 44 CLR 38 \(14 August 1930\)](#) - Justice Dixon's states that officers must prove every aspect of the case, including the lawfulness of the acts referred to.

In the case of [Attorney-General \(WA\) v Marquet \[2003\] HCA 67; 217 CLR 545; 202 ALR 233; 78 ALJR 105 \(13 November 2003\)](#) - Justice Kirby states very clearly, between paragraphs 203 - 213 that the purported Australia Act - which the governments agencies hang their hats on every day - is illegal and void because it purports to alter the Commonwealth Constitution without complying with Section 128, which is that can only happen by way of a referendum.

This is further confirmed in the case of [King v Jones \[1972\] HCA 44; \(1972\) 128 CLR 221 \(1 September 1972\)](#) - where, at paragraph 10, Justice Barwick again stated that the Constitution can only be changed pursuant to Section 128, which is by way of a referendum.

Coram Judice and Jurisdiction

In [Parisienne Basket Shoes Pty Ltd v Whyte](#), High Court Justice Dixon clearly stated, and was supported by all other Judges, when he said, "Where there is a disregard of or failure to observe the conditions, whether procedural or otherwise, which attend the exercise of jurisdiction or govern the determination to be made, the judgment or order may be set aside and avoided by proceedings by way of error, certiorari, or appeal. But, if there be want of jurisdiction, then the matter is *coram non judice*. It is as if there were no judge and the proceedings are as nothing. They are void, not voidable (Cp. *The Case of the Marshalsea*[42])."

Rental Fees

The case of [Palmer v Hutchinson \(Residential Tenancies\) \[2013\] VCAT 873 \(29 May 2013\)](#) - dealt with illegal direct debit fees being charged to tenants by Real Estate agents for making their monthly rental payments by direct debit. If you know anyone who rents and pays by direct debit, make sure they read this case.

Here is a great summary, or overview, of the case as well

- <http://www.rpmonline.com.au/news/11701-tenant-takes-landlord-to-court-over-1-65>

Trespass Cases

One of the most powerful and well known trespass cases is the matter of Plenty v Dillon [\[1991\] HCA 5; \(1991\) 171 CLR 635 \(7 March 1991\)](#)

Here is an excellent summary of it, and related cases, and how the Courts and Parliaments MUST obey Common Law - <http://www.patriotnetwork.info/CommonLaw-essay1.htm>

And here is another great website dealing with trespass cases

- <http://peopleofthecommonwealth.blogspot.com.au/2009/12/high-court-rulings-on-trespass.html>

You can download a [No Trespassing Notice via this link](#) if you want to put one up on your property.

Banking

The case of [Andrews v Australia and New Zealand Banking Group Ltd \[2012\] HCA 30 \(6 September 2012\)](#) - discusses the fact that bank fees are a penalty and are therefore illegal because only courts can impose penalties. Paragraph 63 is also very interesting because they stipulate that "it is equity, not the law, that is to prevail." So, the law is irrelevant if there is no "equity".

The decision in the matter of [Ozdil v Vrsecky](#) was an extremely powerful one as the court overturned a bankruptcy a full 10 months after the fact because, when challenged, the debt collection company, who purchased a debt off Westpac, couldn't prove that a valid Notice of Assignment had been provided to the debtor. Very often, a Notice of Assignment does not comply with the requisite legislation and, therefore, it is invalid. You can find out more in the [Bank Secrets Revealed e-book](#).

Appearing on behalf of a company

[Permanent Custodians Limited v Virgin Investments Pty Ltd](#) - is a case that proves that you can speak on behalf of a company, without a lawyer - something the courts will almost always argue cannot happen.

In, fact, it happened on more than 10 occasions at the Supreme Court, Masters Court, (now the Supreme Court Associate Judges Court) the Supreme Court Practice Court and the Supreme Court, Court of Appeal so there is absolutely NO denying that you CAN do it!

The Australian Government is a Corporation

We urge you to visit [this Treasury web page](#) for proof that the Australian Government is, in fact, a mere corporation. You can also download the full [109 page FOI response from Treasury](#) explaining, in detail, that the Australian Government is now just a privately owned, American company, listed on the Securities and Exchange Commission (our equivalent of ASIC) in the US.

You should also read through [this comprehensive web page](#) to see **exactly** what the ramifications of our Government being a corporation really are. Please also refer to the section below, which explains why a corporation has no lower or authority over a living, breathing man or woman.

Corporation has no power over the living

The case of [Rundle v. Delaware & Raritan Canal Company, 55 U.S. 14 How. 80 80 \(1852\)](#) - dictates that a corporation cannot sue or otherwise exercise power over a living man/woman. this is why all our names have been corporatised.

Please make sure you read all of the information on our [Strawman page](#) to find out more about this concept.

[Click here](#) to download an interesting document from Dun & Bradstreet, showing that numerous entities - including the Commonwealth of Australia, Consular General of Australia and the Reserve Bank of Australia - are actually all corporations listed on the US stock exchange.

Important Taxation cases

The ATO defines a ['taxpayer'](#) as "a person deriving income or deriving profits or gains of a capital nature". Since you simply swap your own personal exertion, plus your time, wisdom, knowledge etc. for worthless fiat currency with an inherent debt attached, any 'wages' or payment for services would not fall under that definition, hence, you cannot, by definition, be a "taxpayer".

The case of [Long v Rassmussen](#) is a very powerful case where the courts made it clear that the taxation laws can **only** apply to 'taxpayers' and do **not** apply to 'non-taxpayers'. You can find the specific ruling from the court regarding this at the very top of that page.

The case of [Hale v Henkel 201 U.S. 43 \(1906\)](#) is also a very important one because it specifically distinguishes between public and private operation of a business - which confirms that you have the right to operate a business privately (for example, through a

private foundation) and not have any government intervention or obligations, such as taxes. It also acknowledges the important distinction between an individual and a corporation. You can read some great commentary on this case [via this link](#) and also [via this link](#).

We have also uploaded some powerful Freedom of Information responses from the ATO, in reply to FOI requests that people have made of them. In [this response](#), the ATO admits that they cannot define "income" and also makes it clear that they have not been lawfully established. And, [in this response](#), they admit a number of important points relating to: the true powers of the Office of State Revenue, the validity Land Tax Act, the lawful appointment of the Commissioner of Taxation and more.

Common Informer - seeking justice from the Parliament

The 2018 High Court case in the matter of [Alley v Gillespie](#) deals with the ability for anyone to challenge a Member of Parliament who is sitting illegally and their ability to be paid for every day that person has done so. There is a great commentary on the case that you can read via [this link](#).

Constitutional Commission Reports

Darren Dickson, one of the lead researchers for the Graet Australian Party, has kindly sent us link to all 4 of the Constitutional Commission reports. You can download copies of each one via the following links:

[Constitutional Commission - First report \(Volume 1\)](#)

[Constitutional Commission - First report \(Volume 2\)](#)

[Constitutional Commission - Final report \(Volume 1\)](#)

[Constitutional Commission - Final report \(Volume 2\)](#)

Letter from Sir Harry Gibbs

Please be sure to download and read [this letter from the ex-Chief Justice of the High Court, Sir Harry Gibbs](#) which explains that "*the current legal and political system in use in Australia and its States and territories has no basis in law*" and how he advises that you handle any legal challenge.