



# High Court and the Constitution

*Leslie Zines*

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## **High Court and the Constitution** Leslie Zines

It is over eleven years since the previous edition was published by Butterworths (Lexis Nexis). This edition therefore includes information, analysis and critique of the High Court's jurisprudence during that period. Some of its main highlights are: (a) the reformulation and development of the implied freedom of communication on governmental matters, and the establishment of the right to vote in federal elections; (b) the restriction on Parliament's power to interfere with due process and judicial method as administered by the courts, and similar restrictions on the power of the State Parliaments in respect of their courts as a result of the Kable doctrine; (c) judicial disagreement regarding questions of administrative detention as typified by the Al-Khateb case. The exercise by federal judges as *persona designata*, and by State courts, of non-judicial functions; (d) the extent of the corporations power following the *WorkChoices* case; (e) recent developments relating to restrictions on the power of the Commonwealth to bind the States and of the States to affect or bind the Commonwealth (f) the effect of the attainment of Australian sovereignty and other practical considerations on the interpretation of such constitutional concepts as "aliens", "subject of the Queen" and "foreign power", and on the interpretation of the residuary power in s51(xxxviii); (g) the changed approach of the present court to Commonwealth-State cooperative legislative schemes; (h) more generally, the attitude and method of the Gleeson Court as compared with that prevailing at the time the fourth edition was published. Changes have been made to all chapters and encompass other matters such as attempts to reformulate to some degree the principles of characterisation, the freedom of interstate intercourse, a number of problems associated with the relationship of s61 and the common law, trial by jury and the freedom from discrimination of persons resident in other States under s117.

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