


10 Important Cases – Index

Case	Issue	Key Principle	Relevant Paragraphs	Pneumonic / Memory Hook
<i>Liberato v The Queen</i> (1985) 159 CLR 507	Prosecution Obligations	The obligation is on the prosecution to prove its case against an accused person, even when an accused gives evidence.	Brennan (Pgs 514,515,) Deane (519,520)	“The Golden Thread”
<i>Petty and Maiden v The Queen</i> (1991) 173 CLR 95	Right to Silence	The right to silence arises in both the investigative and trial stages. Attempts to get around it are objectionable.	Majority: (Pgs 99, 101, 102)	“What a Petty submission”
<i>R v Apostilides</i> [1984] HCA 38; 154 CLR 563; <i>R v Kneebone</i> [1999] NSWCCA 279; 47 NSWLR 450	Prosecutorial obligations	The Crown hold the responsibility alone as to how the evidence is adduced/ witnesses are called, however, it must be done in fairness to the accused.	<i>Apostilides</i> : [575] <i>Kneebone</i> : [57] – [60], [102]	The “Kneed” for Prosecution to call the witness
<i>IMM v The Queen</i> (2016) 330 ALR 382	Relevance	It is assumed that the jury (or trier of fact) will accept the evidence. Matters of Credibility and Reliability are not to be considered. Take the evidence at it highest.	[39- 40] [44] [58]	“IMM – It Might Matter”
<i>Sio v The Queen</i> (2016) 259 CLR 47; [2016] HCA 32	Hearsay – unavailable witnesses	Reliability and credibility of the circumstances in which the “particular” representation is made, is to be determined by Judge. Not the credibility of the witness as a whole.	[56-58] [61] [71-72]	“S.I.O. – Statement Isn’t Okay” S – Self-interest undermines reliability I – Implicating another = red flag O – Out-of-court? Needs serious scrutiny 
<i>Hughes v The Queen</i> (2017) 344 ALR 187 HCA ; <i>TL v The King</i> [2022] HCA 35	Tendency	SPV s a two-stage test: 1) to what extent does the evidence support the tendency and 2) to what extent does the tendency make more likely the facts making up the charged offence. Will likely by SPV if answer to both is ‘strongly supports’. TL v the King:	Hughes: [16], [40]-[41] TL – [28], [29] <i>Applicable or correspondence legislation:</i>	HEY DAD! HEY TENDENCY!

10 Important Cases – Index

		"close similarity" limited to general identification of the perpetrator	Ss 94 – 101 <i>Evidence Act</i> 1995.	
Browne v Dunn (1893) 6 R 67 <i>Khamis v R</i> [2010] NSWCCA 179	Being “Browned and Dunned”	Fairness requires if a challenge is to be made to impugn the credit of a witness, the challenge be put to the witness in cross examination.	<i>B v D</i> : pgs 70-71, 76-77 (ref to) <i>MWJ v The Queen</i> [2005] HCA 74: [32], [34]-[36], [52]	Face it, or don't disgrace it! If you want to challenge a witness, do it to their face, not behind their back.
<i>Kirk v Industrial Relations Commission of New South Wales</i> [2010] HCA 1	Particulars	The Crown needs to properly particularise its case. A failure to do so is cause for a stay of proceedings.	[26] – [30]	The Industrial Relations Commission is not very particular!
<i>House v The King</i> (1936) 55 CLR 499	Finding Error	1. The judge acted on a wrong principle, 2. The judge allowed extraneous or irrelevant matters to guide or affect him, 3. The judge mistakes the facts, 4. The judge does not take into account some material consideration, or 5. The sentence is unreasonable or plainly unjust.	Pgs [505] & [507]	H - has the judge applied – Wrong principle Or allowed extraneous or irrelevant matters to guide U – used incorrect facts/ mistook the facts S – Some material consideration not taken into account E – End result plainly wrong
<i>Stanojevski v The Queen</i> (2001) 177 ALR 285	Leave – Evidence Act	Trial judge <u>must</u> take into consideration factors under s 192(2) when <i>EA</i> calls for it. 192 (2) EA not exhaustive of matters to be considered.	[41-44] <i>Evidence Act</i> Provisions: 192(2)	