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Key Case Notes & Summaries

Yanner v Eaton (1999) 201 CLR 351

- Significant Australian case - HCA addressed the interpretation of the Cultural Heritage (Protection) Act 1993 (QLD) regarding legal right under QLD legislation to hunt wildlife extended to Indigenous Australians.
- Focused on whether indigenous communities had the right to hunt crocodiles under traditional law without needing a permit under QLD law.
- **Legal issue** – whether the Wildlife Conservation Act 1950 (QLD) restricted hunting of crocodiles or if Yanner had right to do so as part of traditional practice.
- Wildlife Conservation Act 1950 (QLD) prohibits killing of such animals without a permit – legal issue is whether Yanner has the right under the Cultural Heritage (Protection) Act 1993 (QLD) & relevant legislation.
- The case was conflict between traditional law and statutory environmental laws – particular relation to traditional indigenous property rights and regulation of natural resources.
- **Majority judgement (4 – 3)** – Justices Brennan, Gaudron, Kirby & Gummow held that Yanner was entitled to hunt crocodiles, his actions were not covered by the Wildlife Conservation Act in such a way that required a permit.
- The decision emphasised the recognition of traditional indigenous rights which could provide an exemption from general regulatory laws e.g. hunting crocodiles.
- **Legal authority** - relied on the application of the Native Title Act & principles of indigenous peoples' traditional rights that would not otherwise be permissible under contemporary legislation.
- Concerns raised over property rights over natural resources and that indigenous Australians have different concepts of ownership and indigenous land rights.
- **Minority judgement (3 – 4)** – Justices McHugh, Callinan & Hayne held that the Wildlife Conservation Act applied to all individuals including indigenous people meaning Yanner did not have an exemption to hunt crocodiles under his traditional laws.
- Case had significant interest in traditional indigenous property rights and the relationship between traditional law and environmental regulations.

- The dissenting judgement emphasised the need for uniform application of wildlife protection laws and questioned the extension of traditional rights as an exception to such laws.

Victoria Park Racing and Recreation Grounds Company Ltd v Taylor (1937) 58 CLR 479

- Landmark case – set a precedent for the treatment of information in the context of tort law.
- VPR operated a racecourse – Taylor the defendant lived near the racecourse and constructed a platform on his property where he was able to view the public horse racing events being conducted at the racecourse. The defendant broadcasted his observations of the races including information about the results to listeners on the radio.
- VPR claimed that by broadcasting the race results the defendant was interfering with their business as they have exclusive right to profit from the races – betting and commercial activities.
- The issue was whether the defendant's actions constituted a violation of VPR rights, in particular the use of information the defendant observed from the racecourse from his platform on his property.
- **Legal issues** – did the actions of the defendant infringe on the plaintiffs' proprietary rights; was the plaintiff entitled to a remedy for the broadcasting of the race results; and is the broadcasting of the race results a form of trespass or nuisance.
- **Majority** – Justice Dixon held there was no legal right for VPR to prevent the defendant from broadcasting the race results – argued the company's interests were commercial and did not extend to a proprietary right over the viewing or reporting of public events being held. Referred to the principle of nuisance but found broadcasting was not an actionable form of nuisance – there was no interference with VPR property rights or physical occupation of the land. Emphasised that the common law does not recognize a right of "privacy" in relation to public enjoyment of a spectacle like horse racing.
- Justice Rich agreed with Dixon, stressing there was no law protecting the plaintiff's economic interests from being affected by a competitor's use of information. There was no breach of any specific legal right because the defendant had not interfered with VPR use of land itself or trespass or nuisance.
- **Minority** – Justice Evatt held that the defendant's actions did interfere with VPR business, arguing that VPR should have exclusive rights to the results of the races and the actions of the defendant undermined that right. Also reasoned that is there was no physical trespass, the

broadcasting of the results could be seen as a commercial misappropriation which harms the plaintiff's ability to control business and profit.

- **Contrast of judgements** – Dixon & Rich aligned their reasoning that VPR had no proprietary claim over the spectacle or the results, emphasising common law did not recognise the right to control use of public information, and broadcasting results did not constitute interference. Reasoning followed established principles of tort law – interference with property (trespass/ nuisance) must be direct, physical, and substantial. While Evatt focused on economic aspects, believing that VPR had a legitimate interest in protecting its monopoly over race results and is entitled to control the dissemination of such information. Commercial misappropriation or essentially intellectual property which was not yet recognised by Australian law at the time.
- **Dismissal findings** – plaintiff could take control of who has access to their racecourse by taking action to physically block access/ viewing abilities by those outside the racecourse, erecting barriers and that sort of thing. The plaintiff should focus on commercial solutions like commercial licensing of events and broadcasting rights, agreements and contracts with media when holding a spectacle to mitigate potential economic loss.