COMMON LAW CHOSES IN ACTION	
Health Insurance Commission v Peverill (1994)	Chose in action (right to Medicare reimbursement) = "property" under s 51(xxxi). Retrospective legislation defeated claim, but no "acquisition" by Commonwealth found. Majority held statutory rights **can be property**, but not every extinguishment = acquisition.
JT International SA v Commonwealth (2012)	IP rights (e.g. trademarks, patents) created by statute are still "property" under s 51(xxxi).
Wurridjal v Commonwealth (2009)	Statutory lease over Aboriginal land = acquisition of property; s 51(xxxi) applies to NT laws under s 122.
Commonwealth v WMC Resources (1998)	Modification of exploration rights not an acquisition; **Commonwealth gained no benefit**.

MEANING OF JUST TERMS	
Nelungaloo v Commonwealth (1948)	* "Just terms" ≠ market value alone; must be fair to owner and public Thos overruled *Johnston Fear v Cth* (1943)
Wurridjal (2009)	"Reasonable compensation" can satisfy just terms.

EXCEPTIONS TO ACQUISITION UNDER S51(xxxi)	
DPP; Ex parte Lawler (1994)	Criminal confiscation laws are exceptions
Theophanous v Commonwealth (2006)	Forfeiture of superannuation for corruption ≠ acquisition
Northern Territory v Emmerson (2014) **USE**	USE OF A proportionality test in deciding whether a law which in fact authorises the acquisition of property can **nevertheless fall outside the requirement of just terms in s 51(xxxi)**, due to its essential characterisation under another HoP.
Airservices Australia v Canadian Airlines International (1999)	TEST for deciding whether an acquisition of property is subject to s 51(xxxi): Whether an impugned acquisition of property on **unjust terms is an appropriate and adapted, or proportionate, method** of achieving a purpose **necessarily envisaged by another head of power.** Proportionality Test.
Nintendo v Centronics (1994)	Creation of new IP rights = lawful reallocation under s 51(xviii)

ACQUISITION FOR CTH PURPOSES

Section 51(xxxi) of the Constitution grants the Commonwealth power to compulsorily acquire property for purposes within Parliament's legislative authority.

- There are two interpretations of this power:
  1. The **heads of power** view—where acquisitions must be tied to another legislative power but may extend beyond incidental purposes, allowing acquisitions with an indirect connection.
  2. The **use-based** view—where acquisitions are only valid if the property is put to a legitimate use within power, excluding acquisitions with no practical application.

Recent cases favor the heads of power approach, as it broadens s 51(xxxi)'s scope and strengthens the guarantee of **just terms**, without requiring detailed scrutiny of property use.

ACQUISITION FOR TERRITORIES

- ***Teori Tau*** (1969) [**OVERTURNED**]: The Court ruled that s 51(xxxi) does not apply to property acquisitions in the Territories due to the **broad legislative power granted by** s 122.
- ***Wurridjal*** (2009): The majority (French CJ, Gummow, Kirby, Hayne JJ) overturned Teori Tau, establishing that laws under s 122 must comply with s 51(xxxi), ensuring just terms protections in the Territories.

- Freedom of Religion (s 116)

- The Commonwealth shall not make any law ***for*** **establishing any religion**, or **for imposing any religious observance**, or **for prohibiting the free exercise of any religion**, and **no religious test** shall be required as a qualification for any office or public trust under the Commonwealth.

What is a Religion?

- ***Church of the New Faith v Commissioner of Pay-Roll Tax*** (Vic) (1983) 154 CLR 120 (Two Tests)

1. **Substantive** (Per Mason ACJ and Brennan J):
   a. 'first, belief in a supernatural Being, Thing or Principle; and second, the acceptance of consequent duties of conduct in order to give effect to that belief' (136)
2. **Analogical** (Wilson and Deane JJ):
   a. 'an empirical observation of accepted religions' (173-4), develops either:
      i. **Indicia of religion –** supernatural; relationship of humanity to this; codes of conduct; doctrine; identifiable group; ritual
      ii. **Functional equivalents –** what provides meaning? ultimate concern? harmonises order?

Cth may not make laws to establish a religion

The Commonwealth may not make any law **'for establishing any religion'**

Attorney-General (Vic); Ex rel Black v Commonwealth (DOGS Case) (1981) 146 CLR 559

- Cth funding of education programmes through state grants; some intended recipients run by religious organisations, especially the Roman Catholic Church
- Cannot be used to circumvent s 116 (Gibbs J, 593)
- A non-discriminatory grant of financial aid to church-based schools did not infringe s 116; **'for establishing' = the 'express and single purpose'** of the law (Barwick CJ)

Free Exercise

- **S 116 does not prevent laws** that bar free exercise of religion

Krygger v Williams **(1912) 15 CLR 366**

- Court ruled s 116 **does not prohibit laws requiring acts contrary to religious beliefs**.
- **Griffith CJ at 369:** The constitutional objection fails; justification must be found elsewhere.

Adelaide Company of Jehovah's Witnesses Inc v Commonwealth **(1943) 67 CLR 116**

- High Court ruled s 116 does not prevent the government from **restricting religious groups deemed a security threat**.
- **Latham CJ:** Religious beliefs do not automatically exempt individuals from obeying the law.

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