

Friday, 17 April 2015

Weekly Construction Law Review A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Queensland Nickel Pty Ltd v Commonwealth of Australia (HCA) - Constitutional law - special case - Div 48, Pt 3 Sch 1 *Clean Energy Regulations 2011* (Cth) did not contravene s99 Constitution

Bong Bong Town Centre v Illawarra Clay Target Club (NSWSC) – contract – lease – lessee required to remove lead contamination from land and put it in condition suitable for development

Summaries (Five Minute Read) with Link

Queensland Nickel Pty Ltd v Commonwealth of Australia [2015] HCA 12

High Court of Australia

French CJ; Hayne, Kiefel, Bell, Gageler, Keane & Nettle JJ

Constitutional law - special case to determine whether Div 48, Pt 3 Sch 1 *Clean Energy Regulations 2011* (Cth) was invalid in application to plaintiff as result of giving preference to one State over another contrary to s99 Constitution - plaintiff contended Jobs and Competitiveness Program contravened s99 because allocative baselines it prescribed by were fixed by reference to industry averages and resulted in same number of free carbon units per unit volume of production regardless of differences between producers' inputs, production processes and outputs - held: validity of provisions of Regulations upheld - Div 48 did not give preference to one State over another - no contravention of s99 Constitution.

[QueenslandNickel](#)

[From Benchmark 9 April 2015]



Bong Bong Town Centre v Illawarra Clay Target Club [2015] NSWSC 316

Supreme Court of New South Wales

McDougall J

Contract – remediation clause - plaintiff leased land to defendant club - two variations to lease – by second variation term of lease increased and new clause inserted – dispute concerned club’s obligations to remediate land under clause of lease read in conjunction with clause inserted by second variation – proper construction of remediation clause – validity of notice for purposes of clause inserted by second variation - held: club liable to remove lead contamination from and otherwise make good leased land, and in default to reimburse plaintiff for doing so.

[BongBong](#)

[From Benchmark 14 April 2015]

Tall Nettles

By Edward Thomas

TALL nettles cover up, as they have done
These many springs, the rusty harrow, the plough
Long worn out, and the roller made of stone:
Only the elm butt tops the nettles now.

This corner of the farmyard I like most:
As well as any bloom upon a flower
I like the dust on the nettles, never lost
Except to prove the sweetness of a shower.

[Edward Thomas](#)

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