

Unit Three Case / Legislation / Event Examples

<i>Example / Case Name</i>	<i>What Happened</i>	<i>Relevance to course</i>
2016 Double Dissolution	<ul style="list-style-type: none"> Triggered by ABCC Bills failing to pass Turnbull argued it was a Gov. mandate Governor General called Double Dissolution election 	<ul style="list-style-type: none"> Express Powers of the Governor General (s57) Mandates passing Powers of the PM
1975 Constitutional Crisis	<ul style="list-style-type: none"> Whitlam budget fails to pass Whitlam requests a half senate election G.G meets with C.J Garfield Barwick and requests advice on use of reserve powers G.G refuses half senate election G.G Sir John Kerr used his reserve powers under s64 to dismiss PM Gough Whitlam 	<ul style="list-style-type: none"> Reserve Powers of the Governor General (s64) Constitutional Conventions Limits on the PM's Power
Ministers of State Act 1952	<ul style="list-style-type: none"> Act = number of ministers must be less than 42 	<ul style="list-style-type: none"> Ministers The 'real' executive
Barnaby Joyce Coal Mine Plan Rejection	<ul style="list-style-type: none"> July 2015 Refused to support cabinets plan Did not resign (broke convention) 	<ul style="list-style-type: none"> Cabinet solidarity Limits on the PM Limits on effectiveness of Commonwealth constitution
Barnaby Joyce Baby Scandal	<ul style="list-style-type: none"> 2018 Stood on a marriage sanctity platform Cheated on his wife with a staffer Resigned as Deputy PM and Leader of the Nationals 	<ul style="list-style-type: none"> Individual Ministerial Accountability
Tony's "Leaky" Cabinet	<ul style="list-style-type: none"> 2013 Abbott's cabinet unhappy with "captain calls" Starts leaking cabinet discussions to the press 	<ul style="list-style-type: none"> Cabinet Secrecy Limits on the PM
Kevin Rudd & the Foreign Affairs Portfolio	<ul style="list-style-type: none"> Gillard (2010) appointed Rudd to the portfolio to try placate him after being rolled as PM 	<ul style="list-style-type: none"> PM's power of Patronage Express Powers of the Governor General (s64)
2004 Boxing Day Tsunami	<ul style="list-style-type: none"> Cabinet had to decide how to respond 	<ul style="list-style-type: none"> Role of Cabinet: Responding to Crisis
2015 Lindt Cafe Siege	<ul style="list-style-type: none"> Cabinet had to decide how to respond 	<ul style="list-style-type: none"> Role of Cabinet: Responding to Crisis
2008 Global Financial Crisis	<ul style="list-style-type: none"> Cabinet had to decide how to respond 	<ul style="list-style-type: none"> Role of Cabinet: Responding to Crisis
Turnbull Government (2016 - ?)	<p>Achievements</p> <ul style="list-style-type: none"> Restoring ABCC (2016) 2016 Defence White Paper China-Australia Free Trade Agreement No jab, No pay policy <p>Failures</p> <ul style="list-style-type: none"> Opinion Polls 	<ul style="list-style-type: none"> Powers of the PM: Passing Legislation Mandates Limits on the powers of the PM

		<ul style="list-style-type: none"> ○ Malcolm consecutively last in the two party preferred vote 30 times. ● Factions within his Coalition party <ul style="list-style-type: none"> ○ Requires him to make deals and often remain stagnant to maintain party support. ● Issues within Cabinet (not a leaky cabinet just a “special” one) = YOU ARE RESPONSIBLE FOR YOUR MINISTERS. <ul style="list-style-type: none"> ○ Barnaby Joyce debacle ○ Michaelia Cash issues ● Marriage Equality Postal survey <ul style="list-style-type: none"> ○ Couldn't just legislate on the issue had to voice the peoples opinions in this forum to please the factions in his party. 	
	Abbott Government	<p>Achievements</p> <ul style="list-style-type: none"> ● Axe The Tax ● Stop the Boats <p>Failures</p> <ul style="list-style-type: none"> ● Difficulty passing through the 2014 budget had to make compromises 	<ul style="list-style-type: none"> ● Powers of the PM: Passing Legislation ● Mandates ● Limits on the powers of the PM
	Gillard Government (2010 - 2013)	<p>MINORITY GOVERNMENT</p> <p>Achievements</p> <ul style="list-style-type: none"> ● Highest Rate of Passing legislation (0.495) ● Best negotiator ● Used ability to allocate portfolios and appt. Ministers to her advantage <ul style="list-style-type: none"> ○ 2010 - awarded Rudd with Foreign Affairs portfolio to placate from him being rolled (the 2010 leadership spill) <p>Failures</p> <ul style="list-style-type: none"> ● Carbon Tax had to be implemented despite it being opposite of her mandate ● Media attention <ul style="list-style-type: none"> ○ Late 2012 = party support in public polls = 49% <ul style="list-style-type: none"> ■ Due to lack of mandate ● 2013 - Leadership Spill <ul style="list-style-type: none"> ○ Gillard calls ballot, Rudd opposes ○ G = 45 votes ○ R = 57 votes ○ Rudd wins back leadership 	<ul style="list-style-type: none"> ● Powers of the PM: Passing Legislation ● Mandates ● Limits on the powers of the PM ● Functions of parliament in regards to legislation
	Rudd Government	<p>Achievements</p> <ul style="list-style-type: none"> ● <p>Failures</p> <ul style="list-style-type: none"> ● Emissions Trading Scheme <ul style="list-style-type: none"> ○ Broken mandate 	<ul style="list-style-type: none"> ● Powers of the PM: Passing Legislation ● Mandates ● Limits on the powers of the PM
	<i>Censure Motion (George Brandis)</i>	<ul style="list-style-type: none"> ● March 2015 ● Censured by the Senate ● Did not resign ● Did not have to resign 	<ul style="list-style-type: none"> ● Censure Motions ● Methods for keeping the government accountable ● Functions of Parliament

	<i>Motion of No Confidence (Rudd Government)</i>	<ul style="list-style-type: none"> • Rudd government's Carbon Pollution Reduction Scheme is blocked by the Senate • Abbott calls Motion of No Confidence 	<ul style="list-style-type: none"> • Motions of No Confidence • Methods for keeping the government accountable • Functions of Parliament
	<i>Censure Motions</i>	<ul style="list-style-type: none"> • Shorten and Turnbull (2016) • Tony Burke and Bronwyn Bishop (2016) 	<ul style="list-style-type: none"> • Motions of No Confidence • Methods for keeping the government accountable
	<i>Motion of No Confidence</i>	<ul style="list-style-type: none"> • 2015 - Shorten & Abbott (D) • 2013 - Abbott & Gillard (D) • 2013 - Abetz & Labor Senate 	<ul style="list-style-type: none"> • Motions of No Confidence • Methods for keeping the government accountable • Decline of Parliament Thesis
	"Budget Repair"	<ul style="list-style-type: none"> • 2013 • Promised to return federal budget to surplus 	<ul style="list-style-type: none"> • Will of the Majority Mandate: General • Failing Mandates
	ABCC Bills	<ul style="list-style-type: none"> • 2016 • Restore Australian Building and Construction Commission • Specific Mandate of Turnbull government • Triggered Double Dissolution election 	<ul style="list-style-type: none"> • Will of the Majority Mandate: Specific Law • Express Powers of the Governor General (s57) • Mandates passing • Will of the People • Powers of PM over Opposition in lawmaking
	Repeal the Carbon Tax	<ul style="list-style-type: none"> • 2013 • Abbott Government repealed the Gillard government's Carbon Tax = specific mandate 	<ul style="list-style-type: none"> • Will of the Majority Mandate: Repeal old laws • Mandates passing
	Stop the Boats	<ul style="list-style-type: none"> • 2013 • Abbott Government's sweeping mandate to stop illegal immigrants and refugees entering Australia via boats 	<ul style="list-style-type: none"> • Will of the Majority Mandate: General approaches to specific policy area
	Same-Sex Marriage Plebiscite	<ul style="list-style-type: none"> • 2017 • Plebiscite on Marriage Equality = mandate of Liberal Coalition • Blocked in Senate • Postal Survey held instead 	<ul style="list-style-type: none"> • Will of the Majority Mandate: General approaches to specific policy area • Mandates Failing • Competing mandates • Will of the Parl. & Will of the People
	2005 RU486 Act	<ul style="list-style-type: none"> • Private Members Bill • Abortion Pill legalisation 	<ul style="list-style-type: none"> • Individuals Impact (Parliament)
	Territories Act 2011	<ul style="list-style-type: none"> • Private Members Bill 	<ul style="list-style-type: none"> • Individuals Impact (Parliament)
	Mabo v QLD [1992]	<ul style="list-style-type: none"> • Common Law 	<ul style="list-style-type: none"> • Individuals Impact (Courts) • Common Law
	Roach v Electoral Commission	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Individuals Impact (Courts) • Constitutional Law

Williams (No. 1)	<ul style="list-style-type: none"> • Williams v Commonwealth of Australia • Government tried funding Scripture Union Queensland • Was ruled invalid as it was beyond the exec. Power of the Commonwealth • Outcome defined & limited the scope of executive power 	<ul style="list-style-type: none"> • Individuals Impact (Courts) • Original Jurisdiction <ul style="list-style-type: none"> ◦ s75 ◦ s76 ◦ s61 (prerogative power)
Workchoices 2006		<ul style="list-style-type: none"> • Political Parties Impact (Parliament) • Power of PM • Decline of Parliament Thesis <ul style="list-style-type: none"> ◦ Due to Howards friendly Senate
Carbon Tax (GRN / ALP)	<ul style="list-style-type: none"> • Greens wanted Carbon Tax and the Gillard Government needed the Greens support to maintain control as a minority government. 	<ul style="list-style-type: none"> • Political Parties Impact (Parliament)
Communist Party Case [1951]	<ul style="list-style-type: none"> • Communist Party of Aus. v Commonwealth of Aus. [1951] • Commonwealth attempt to ban communist parties is struck down • Limiting Commonwealth Power 	<ul style="list-style-type: none"> • Political Parties Impact (Courts) • Landmark Cases • High Court's Power of Judicial Review
WorkChoices [2006]	<ul style="list-style-type: none"> • Commonwealth Industrial Relations law • Introduced by Howard Government • Commonwealth used s51 (xx) to pass the legislation • Challenged but ruled constitutional under s51(xx) 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ s51 (xx) • Pressure Group Impact (Courts)
Rowe & Anor v Electoral Commission [2010]	<ul style="list-style-type: none"> • Get Up! 	<ul style="list-style-type: none"> • Pressure Group Impact (Court)
Company Tax Cuts	<ul style="list-style-type: none"> • 2018 • Specific mandate of Liberal Coalition • Blocked in Senate = Tim Storer 	<ul style="list-style-type: none"> • Will of the Majority Mandate: General approaches to specific policy area • Mandates Failing • Competing mandates • Functions of Parliament
Tim Storer	<ul style="list-style-type: none"> • SA independent in Senate • Only secured 189 votes • Blocked Company Tax Cuts 	<ul style="list-style-type: none"> • Balance of Power Mandate
No Carbon Tax	<ul style="list-style-type: none"> • 2010 Gillard Government promised not to implement Carbon Tax at election • Went back on this and implemented Carbon Tax to maintain support of Greens Party to allow her to keep power (minority government) 	<ul style="list-style-type: none"> • Will of Parliament • Theoretical nature of mandates
Marriage Amendment (Definition and Religious Freedom) Act [2017]	<ul style="list-style-type: none"> • Private Members Bill • Dean Smith • Marriage Equality 	<ul style="list-style-type: none"> • Individuals Impact (Parliament)

2016 Senate Voting Reform	<ul style="list-style-type: none"> • Anthony Green • Removed group ticket voting 	<ul style="list-style-type: none"> • Individuals Impact (Parliament) • Revival of Parliament thesis
David Manne <i>Plaintiff M70/2011 v. Minister for Immigration and Citizenship [2011]</i>	<ul style="list-style-type: none"> • David Manne • Challenge to Gillard plan to send refugees to Malaysia • Ruled that it contradicted with Human Rights and Refugee Agreements made with Australia and the UN 	<ul style="list-style-type: none"> • Individuals Impact (Courts)
Ha & Hammond cases [1997]	<ul style="list-style-type: none"> • Challenge to state tax on alcohol & tobacco • Tobacco and Alcohol ruled as excise = exclusive power • Increasing VFI • Undermining state power 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ s51 (ii) ◦ s90
Asset Recycling Scheme	<ul style="list-style-type: none"> • Tied Grants (Incentive Payments) • Ended in 2015 • Encouraged state to sell infrastructure <ul style="list-style-type: none"> ◦ E.g Western Power 	<ul style="list-style-type: none"> • Federalism - Coercive • Balance of Power
Graham v Preston [1950] 81 CLR 1	<ul style="list-style-type: none"> • Referred powers are concurrent • S109 prevails in times of legislative conflict 	
Family Court	<ul style="list-style-type: none"> • All states but WA signed agreement to make defacto child law in Family Courts the same • Now all Family courts are the same 	<ul style="list-style-type: none"> • Referral of Powers <ul style="list-style-type: none"> ◦ s51 (xxxvii) • COAG • Cooperative Federalism
Murray Darling Basin Plan (2008) to pass the Water Act Amendment	<ul style="list-style-type: none"> • All states in which the Murray Darling system signed the agreement to ensure the maintenance of the water system <ul style="list-style-type: none"> ◦ Make sure no state was using too much of the water e.c.t 	<ul style="list-style-type: none"> • Referral of Powers <ul style="list-style-type: none"> ◦ s51 (xxxvii) • COAG • Cooperative and coercive federalism
Peterswalds Case [1904]	<ul style="list-style-type: none"> • Commonwealth challenged NSW Brewers Tax • H.C held that the Brewers Tax was not excise • Therefore was collectable by the states 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ S90 • Doctrine of Reserved Powers • Balance of Power: States
Railway Servants Case [1906]	<ul style="list-style-type: none"> • Dispute between WA & the Commonwealth to leg. about the rights of WA workers <ul style="list-style-type: none"> ◦ s51 (xxxvii) • Doctrine of Implied Immunities of State Instrumentalities 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ s51 (xxxvii) • Balance of Power: States
Surplus Revenue Case [1908]	<ul style="list-style-type: none"> • States challenged Commonwealth ability to direct surplus funds into special holding accounts • States lose financial independence 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ S94 • Balance of Power: Federal
Engineers Case [1920]	<ul style="list-style-type: none"> • Industrial Relations • Commonwealth sought to leg. to make laws for state businesses when a 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ S94

		dispute crosses state borders	<ul style="list-style-type: none"> Balance of Power: Federal
	Uniform Tax Cases [1942 & 1957]	<ul style="list-style-type: none"> Commonwealth had passed 4 Acts giving power to them to collect income tax due to the need for extra money during / post World War One The state challenged this when the Commonwealth when they would not return power Ruled that the Commonwealth could collect income tax, without stopping the states from collecting income tax as well. 	<ul style="list-style-type: none"> Landmark Case Constitutional Cases <ul style="list-style-type: none"> s51 (ii) Balance of Power: Federal
	State Banking Case [1947]	<ul style="list-style-type: none"> Broad meaning to guarantee s92 free trade by ruling against leg. Attempting to force states to bank with Commonwealth bank = discrimination against states Limited Commonwealth Power 	<ul style="list-style-type: none"> Landmark Case Constitutional Cases <ul style="list-style-type: none"> s92
	Bank Nationalisation Case [1948]	<ul style="list-style-type: none"> s92 prevented nationalisation on the basis that it prevented free trade between the states Limited Commonwealth Power 	<ul style="list-style-type: none"> Landmark Case Constitutional Cases <ul style="list-style-type: none"> s92
	Concrete Pipes Case [1971]	<ul style="list-style-type: none"> Corporations power <ul style="list-style-type: none"> s51 (xx) Right to leg. for intrastate activities of corporations Trade Practice Act (challenged leg.) = constitutional 	<ul style="list-style-type: none"> Landmark Case Constitutional Cases <ul style="list-style-type: none"> s51 (xx)
	Koowarta [1982]	<ul style="list-style-type: none"> QLD prevented Koowarta from purchasing land due to him being Aboriginal Conflicted with Racial Discrimination Act [1975] due to UN International Conventions QLD lost sovereignty over land management 	<ul style="list-style-type: none"> Landmark Case Constitutional Cases <ul style="list-style-type: none"> s51 (xxix) External Affairs Power Balance of Power: Federal
	Tasmanian Dams [1983]	<ul style="list-style-type: none"> Commonwealth signed convention for the protection of world heritage sites Ratified conventions with the World Heritage Properties Conservation Act Tas. challenged leg. = lost sovereignty over water management. 	<ul style="list-style-type: none"> Landmark Case Constitutional Cases <ul style="list-style-type: none"> s51 (xxix) External Affairs Power Balance of Power: Federal
	ABC & Medicare Cuts	<ul style="list-style-type: none"> "Feral Senate" Did not pass senate Was not mandate 	<ul style="list-style-type: none"> Will of Parliament Limits to PM's power
	NSW Registrar of Births, Deaths and Marriages v Norrie	<ul style="list-style-type: none"> Relates to Births, Deaths and Marriages Act 1995 [NSW] Norrie was born male then transitioned to being female but identifies as neither Wanted to be legally recognised as neither Created new common law category of sex (non-specific) 	<ul style="list-style-type: none"> Appellate Jurisdiction of the H.C <ul style="list-style-type: none"> S73 Common Law decisions Activist interpretation

Independent Commission Against Corruption v Cunneen & ORS	<ul style="list-style-type: none"> • Dep. of Crown Prosecutor Margaret Cunneen accused by ICAC of 'corrupt conduct' • Appealed conviction • Narrowed definition of 'corrupt conduct' 	<ul style="list-style-type: none"> • Appellate Jurisdiction of the H.C <ul style="list-style-type: none"> ◦ S73 • Common Law decisions
Harbour Radio Pty Ltd vs Trad [2012] HCA 44		<ul style="list-style-type: none"> • Common Law case example
Dietrich v Queen [1992]		<ul style="list-style-type: none"> • Common Law case example
Cole v Whitfield 1988	<ul style="list-style-type: none"> • Tas. blocked import of SA crayfish due to State size regulations • State law ruled invalid under s92 requiring trade between states to be "absolutely free" • States lost economic sovereignty 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ S92 • Balance of Power: Federal
R v Burgess [1936]	<ul style="list-style-type: none"> • Air travel disputes • Gave commonwealth the power to leg. in this area under external affairs power • Broad Interpretation 	<ul style="list-style-type: none"> • Landmark Case • Constitutional Cases <ul style="list-style-type: none"> ◦ s51 (xxix)
September 2015 Leadership Spill	<ul style="list-style-type: none"> • Turnbull rolls Abbott • Vote = 54 - 44 	<ul style="list-style-type: none"> • Decline of Parliament Thesis • Limits on the PM
Terrorism	<ul style="list-style-type: none"> • Counter Terrorism agreement signed by states • To make Counter Terrorism laws consistent among states • Relates to Criminal Law which differs in each state/territory 	<ul style="list-style-type: none"> • Referral of Powers <ul style="list-style-type: none"> ◦ s51 (xxxvii) • COAG • Cooperative Federalism
Fiona Nash (Minister for Health)	<ul style="list-style-type: none"> • Minister for Health - Fiona Nash censure in Senate for conflicts of interest in March 2014. 	<ul style="list-style-type: none"> • Senate Censure Motions • Question Time • Functions of Parliament
Mal Brough (Special Minister for State)	<ul style="list-style-type: none"> • December 2015 • Mal Brough was questioned 7 times in a row regarding involvement with James Ashby and his legal action against former Speaker Peter Slipper 	<ul style="list-style-type: none"> • Senate Censure Motions • Question Time • Functions of Parliament