



## THE UNIVERSITY OF MELBOURNE ARCHIVES

<b>NAME OF COLLECTION</b>	Heffey & Butler
<b>ACCESSION NO</b>	1977.0030
<b>CATEGORY</b>	Business, individuals
<b>ACTIVITY</b>	Lawyers
<b>DATE RANGE</b>	1962-1963
<b>SIZE OF COLLECTION</b>	0.26 metres
<b>HISTORICAL NOTE</b>	<p>Gerard Heffey and Thomas Butler were over many years prominent in Catholic lay activities, notably the Campion Society and in Butler's case, <i>The Catholic Worker</i>. After the ALP split of 1955, both became critical of the role of the National Civic Council in Australian politics.</p> <p>Heffey &amp; Butler acted for Robert Peter Tait in 1962 in his appeal for a stay of execution on the grounds of insanity. Tait had been convicted in 1961 for the murder of a woman and sentenced to death. Debate raged in Parliament and the press about capital punishment and Tait's state of mind at the time of his offence. The State Government argued vigorously for Tait's hanging and several dates were set for the execution. On 5 December 1962, the death sentence was commuted after certificates had shown Tait's mental health to be impaired. He was sent to jail with his papers marked "never to be released" and was Victoria's longest serving prisoner when he died in 1984. Thomas Butler and Gerard Heffey both died in 2005, in January and October respectively.</p>
<b>DATE OF TRANSFER</b>	11 February 1977
<b>ACCESS CONDITIONS</b>	Open
<b>DESCRIPTION</b>	[Tait Case papers] Tait case legal papers and opinions: correspondence; transcripts; subsequent proceedings in the matter of Robert Peter Tait for special leave to appeal against the judgement of orders of the Supreme Court sentence to death 1962; Supreme Court of Victoria in its jurisdiction before Lowe, Smith, Pope; High Court of Australia N.S.W. Registry; High Court of Australia Principal Registry.
<b>NOTE ON COLLECTIONS</b>	

Collection:

Accession:

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<b>NOTE ON LISTING</b>	This list has been transcribed from a comprehensive, handwritten list that is undated.
<b>LISTED BY</b>	Not known
<b>DATE</b>	undated

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Collection:

Accession:

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## Series Table of Contents

Series 1	R vs. Robert Peter Tait		
Series 2	Subsequent Proceedings		

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Box No	Series No	Description	Date
<b>1</b>	<b>1/1</b>	<b>R v Robert Peter Tait</b>	
	1/1/1	Observations of Counsel (annotated)	
	1/1/2-6	Transcript of proceedings before Dean J in Supreme Court of Victoria. Includes minutes of evidence, counsels' submissions, charge to the jury and sentence. It is underlined, annotated and marked <u>passim</u> . The volume also contains an Index to Submissions etc, an index of witnesses' evidence relating to the application of the McNaghten Rules, ie insanity, and handwritten note relating to various illnesses	4 – 8 December 1961
	<b>1/2</b>	<b>Subsequent Proceedings (bound)</b>	
	1/2/1	<u>IN THE MATTER</u> of <u>ROBERT PETER TAIT</u> a person alleged to be a lunatic; and <u>IN THE MATTER</u> of <u>THE MENTAL HYGIENE ACT 1958</u> . Supreme Court of Victoria. Full Court, No. M.4442 <u>Appeal Book</u> (bound). Appeal by David Horace Forde Scott against judgment of Supreme Court of Victoria (Gowans J). Includes notice of appeal, order of Gowans J, affidavits of G H Springthorpe, L H Whitaker, judgement of Gowans, J, counsels' submissions, argument, etc.	1962  12 - 15 October 1962
	1/2/2	<u>IN THE MATTER</u> of an <u>APPLICATION</u> by <u>DAVID HORACE FORDE SCOTT</u> for <u>SPECIAL LEAVE TO APPEAL</u> from a decision of the Full Court by the Supreme Court of the State of Victoria refusing an application by the Appellant for a stay of execution of sentence of death on one <u>ROBERT PETER TAIT</u> and dismissing an Appeal from a judgment of Mr Justice Gowans whereby a Petition presented by the Appellant herein for an Order for an Inquisition into the alleged lunacy of the said Robert Peter Tait was refused; and <u>IN THE MATTER</u> of <u>ROBERT PETER TAIT</u> a person alleged to be a lunatic; and <u>IN THE MATTER</u> of the <u>MENTAL HYGIENE ACT 1958</u> . High Court of Australia. Principal Registry. No. 50 of 1962 <u>Appeal Book</u> (bound) Each book contains an index, and inter alia judgment of Full Court of Supreme Court of Victoria (Lowe, Smith, Pape JJ)	30 October 1962
	1/2/3	<u>IN THE MATTER</u> of an Application by <u>ROBERT PETER TAIT</u> for <u>SPECIAL LEAVE TO APPEAL</u> from a decision of His Honour Mr Justice Dean of the Supreme Court of Victoria in its Criminal Jurisdiction refusing a Motion for stay of execution of sentence of death wherein the said Robert Peter Tait was Applicant and the Queen was Respondent. High court of Australia. Principal registry. No. 51 of 1965. <u>Application Book</u> (bound)	

<b>Box No</b>	<b>Series No</b>	<b>Description</b>	<b>Date</b>
		Application Book contains index, order of Dean J. 19/10/1962, order and judgment of Full Court of Supreme Court of Victoria (Lowe, Smith, Pape JJ)	19 October 1962 30 October 1962
	1/2/4	<u>IN THE MATTER</u> of Applications for Special leave to appeal from Judgments or Orders of the Supreme Court of Victoria with reference to <u>ROBERT PETER TAIT</u> a prisoner under sentence of death. High Court of Australia. Principal Registry No. 50 and 51 of 1962. <u>Affidavit</u> . E D Craig, Marshal of High Court Re service of order of High Court on Sheriff of Supreme Court of Victoria, Crown Solicitor, Secretary of State	31 October 1972
	1/2/5	<u>IN THE MATTER</u> of an application by <u>ROBERT PETER TAIT</u> for special leave to appeal from a decision of the Full Court of the Supreme Court of Victoria made on a motion for stay of execution of sentence of death wherein the said <u>ROBERT PETER TAIT</u> was Applicant and <u>THE QUEEN</u> was Respondent. High Court of Australia. Principal Registry No 52 of 1962. <u>Notice of Motion</u> (corrected draft and 10 bound copies)	2 November 1962
	<b>2/1</b>	<b>Subsequent Proceedings (unbound)</b>	
	2/1/1	<u>IN THE MATTER</u> of <u>ROBERT PETER TAIT</u> a person alleged to be a lunatic; and <u>IN THE MATTER</u> of the Mental Hygiene Act 1958. Supreme Court of Victoria in Lunacy before Gowans J	October 1962
	2/1/1/1	Affidavit in support of petition for inquisition. Lance Howard Whitaker. (signed by D P Mannix)	11 October 1962
	2/1/1/2	Draft Affidavit in support of petition for inquisition. Guy Hale Springthorpe. Corrected and initialled	11 October 1962
	2/1/1/3	Order of Gowans J (in Chambers)	11 October 1962
	2/1/1/4	Notice of petition to Robert Tait as amended	11 October 1962
	2/1/1/5	Transcript of hearing before Gowans J: unrevised judgment (3 copies)	15 October 1962
	2/1/2	<u>Before Lowe, Smith and Pape JJ</u> Transcript: Judgment of Lowe J pp. 1-5 Judgment of Smith J pp.6-12 Judgement of Pape J pp.13-19 (2 copies)	30 October 1962
	<b>2/2</b>	<b>Robert Peter Tait vs The Queen</b>	
	2/2/1	<u>Supreme Court of Victoria in its criminal jurisdiction: Dean J (first hearing)</u>	
	2/2/1/1	Pencilled raft of amendment to notice of motion	
	2/2/1/2	Copy of order of leave to amend by Dean J	19 October 1962
	2/2/1/3	Notice of motion. To move the court to order an inquiry into Tait's sanity and also to order that the execution be stayed etc. As amended	19 October 1962
	2/2/1/4	Affidavit of Mr L H Whitaker (original signed; one copy)	18 October 1962

<b>Box No</b>	<b>Series No</b>	<b>Description</b>	<b>Date</b>
	2/2/1/5	Affidavit of Mr G H Springthorpe (original signed; 3 copies)	18 October 1962
	2/2/1/6	Affidavit of Mr T M Butler (2 copies)	18 October 1962
	2/2/1/7	Affidavit in support of motion. Mr T M Butler (original signed)	19 October 1962
	2/2/1/8	Affidavit in support of motion. Mr J A H Lewis (16 copies)	19 October 1962
	2/2/1/9	Brief to apply for stay of execution of sentence of death. Mr Nimmo (back sheet); with Affidavits of Messrs T M Butler, G H Springthorpe, L H Whitaker (signed)	
	2/2/1/10	Brief to apply for stay of execution. Mr J H Phillips (back sheet)	
	2/2/1/11	Order of Dean J referring motion to the Full Court (drafts; one signed by Dean J)	19 October 1962
	2/2/2	Supreme Court of Victoria ... Before Lowe, Smith Pape JJ	
	2/2/2/1	Affidavit of Dr L H Whitaker (drafts, original signed and 3 copies)	21 October 1962
	2/2/2/2	Affidavit of Mr T M Butler (draft and 5 copies)	21 October 1962
	2/2/2/3	Brief of applicant on application for reprieve and inquiry. Mr Derham. Back sheet marked 'file declined' and signed.	23 October 1962
	2/2/2/4	Brief for applicant or application for reprieve and inquiry. Dr Brett Back sheet marked 'file declined' and signed.	23 October 1962
	2/2/2/5	Brief to hear judgment Mr Derham (back sheet)	
	2/2/2/6	Brief to hear judgment. Mr Nimmo	
	2/2/2/7	Order (2 copies; marked on back 'Judgment'. The order refers the motion back to Dean J.	30 October 1962
<b>2</b>	2/2/2/8	Handwritten notes of proceedings	22-23 Oct. 1962
	2/2/2/9	Judgment of Smith J. Typescript corrected.	30 October 1962
	2/2/2/10	Judgments of Lowe, Pape, Smith JJ (7 copies). NB. Lowe and Pape delivered a joint judgment. Smith J's judgment follows in each copy.	30 October 1962
	2/2/3	Supreme Court of Victoria ... Before Dean J (second hearing)	
	2/2/3/1	Reasons for judgment	30 October 1962
	2/2/3/2	Order by Dean, J. (3 copies)	30 October 1962
	2/3/1	<u>IN THE MATTER</u> of Applications for special leave to appeal from Judgments or Orders of the Supreme Court of Victoria with reference to <u>ROBERT PETER TAIT</u> or prisoner under sentence of death. Nos. 50 and 51 of 1962. Supreme Court of the State of Victoria. [ <u>David Horace Forde Scott v The Queen</u> and <u>Tait v the Queen</u> . Each document will bear the title of the specific appeal	

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		to which it relates.]	
	2/3/1/1	Notice of Motion	31 October 1962
	2/3/1/2	Affidavit of T M Butler (10 copies) with documents marked 'A'-'G' which are referred to in the Affidavit. 'A' Notice of Motion (4 copies) 'B' Affidavit of Mr G H Springthorpe (4 copies) 'C' Affidavit of Dr L H Whitaker (4 copies) 'D' Order (4 copies) 'E' Affidavit of Mr T M Butler (4 copies) 'F' Affidavit of Dr L H Whitaker (4 copies) 'G' Judgment of Full Court (5 copies)	19 October 1962  18 October 1962 18 October 1962 19 October 1962 21 October 1962 21 October 1962 30 October 1962
	2/3/1/3	List of relevant Acts to trace origins of key sections Crimes Act, S69 Mental Hygiene Act 1958 (draft & 4 copies)	
	2/3/1/4	List of authorities to be cited	
	2/3/1/5	Excerpts from some of the authorities listed	
	2/3/1/6	Order	31 October 1962
	2/3/2	High Court of Australia. New South Wales Registry	
	2/3/2/1	Notion of Motion	6 November 1962
	2/3/2/2	Transcript of proceedings before Dixon CJ, Kitto, Taylor, Menzies, Owen JJ	6 November 1962
	2/3/2/3	Transcript of proceedings before Dixon CJ, Kitto, Taylor, McTiernan, Windeyer JJ	15 Nov. 1962
	<b>2/4</b>	<b>Dr L Howard Whitaker</b>	
	2/4/1	Letter to Mr Butler, with 6 pages of typescript	
	2/4/2	Letter to the Public Solicitor re. Peter Robert Tait (sic); contains handwritten marking and annotations.	3 November 1961
	2/4/3	Lecture 'Psychopathic Personality', Criminology A, Dr Whitaker (3 copies)	3 July 1961
	2/4/4	Lecture 'Psychopathic Personality' continued (3 copies)	10 July 1961
	<b>2/5</b>	<b>Heffey &amp; Butler; correspondence</b>	
		Correspondence file contained in an Instruction back sheet marked 'Tait, Mr Robert Peter r. The Queen'. Contains instructions from Tait, correspondence with Rylah, Chief Secretary re. action for reprieve. Various notes relating to the action, correspondence with Crown Solicitor, and Parish Patience & McIntyre (acting for Heffey & Butler) re. High Court action, November 1962.  Also contains copy of <i>Messenger</i> 1 January 1963 an correspondence with Rev. O'Connor re the article in it, letters to <i>Sun</i> , <i>Herald</i> and <i>Age</i> , January 1963 re. amendment of law arising out of the Tait case, letter to Dr Whitaker 23 January 1963, correspondence with Professor Howard re. his article for <i>the Australian Law Journal</i> .	11 October 1962- 20 May 1963

Collection:      Accession:

<b>Box No</b>	<b>Series No</b>	<b>Description</b>	<b>Date</b>
	<b>2/6</b>	Note on Tait, no author	undated

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