

ORIGINAL  
IN THE HIGH COURT OF AUSTRALIA

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HOBBS AND ANOTHER

v.

RES

HOBBS AND ANOTHER

v.

GURNEY

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ORIGINAL

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**REASONS FOR JUDGMENT**

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Oral *Judgment delivered at* SYDNEY

on TUESDAY, 14th NOVEMBER 1961

HOBBS AND ANOTHER v. RES

HOBBS AND ANOTHER v. GURNEY

JUDGMENT  
(ORAL)

McTIERNAN J.

HOBBS AND ANOTHER v. RES

HOBBS AND ANOTHER v. GURNEY

I agree with the judgment of the Chief Justice that the driver of the Commonwealth car was guilty of negligence, the negligence which has been described by his Honour the Chief Justice. But I would not hold, in either case, that the plaintiff was guilty of contributory negligence.

I am impressed by the evidence that Res and Gurney had not been standing where they were knocked down for more than a minute, according to the evidence, and it was in that limited time of a minute that this car, driven by the Commonwealth employee, came on the scene and ran them down.

I do not differentiate between the cases of Res and Gurney on the issue of contributory negligence, and therefore I think there is no case for apportionment against either plaintiff.

I base my dissent on considerations put by Mr. Kerr in his argument, which we have just heard, and I do not think it is necessary to restate them all in detail.