

BOURKE

---

V.

THE QUEEN

---

---

**REASONS FOR JUDGMENT**

---

Oral

Judgment delivered at Sydney  
on Thursday 2nd September 1971

ROBERT ALLAN BOURKE

v.

THE QUEEN

ORDER

Special leave refused.

ROBERT ALLAN BOURKE

v.

THE QUEEN

JUDGMENT

(ORAL)

BARWICK C.J.

ROBERT ALLAN BOURKE

v.

THE QUEEN

In my opinion this is not a case for special leave. Apart from a very substantial lapse of time since the judgment of the Court of Criminal Appeal, the matter in the judgment of that Court of which the applicant complains is, in my opinion, upon its proper analysis, particular to the facts and circumstances of this case and is not a matter calling for this Court's further consideration of that aspect of the judgment of the Court of Criminal Appeal.

In rejecting the application, however, I would not wish to be taken to agree with all that the Court of Criminal Appeal has said in point of general principle as to the ingredients of the crime of rape; but this is not in my opinion a case in which the propriety of those views should be examined.

I would refuse special leave to appeal.

ROBERT ALLAN BOURKE

v.

THE QUEEN

JUDGMENT  
(ORAL)

McTIERNAN J.

ROBERT ALLAN BOURKE

v.

THE QUEEN

I agree that this is not a case for special  
leave.

BOURKE

v.

THE QUEEN

JUDGMENT  
(ORAL)

MENZIES J.

BOURKE

v.

THE QUEEN

I agree.



ROBERT ALLAN BOURKE

v.

THE QUEEN

JUDGMENT  
(ORAL)

WINDEYER J.

ROBERT ALLAN BOURKE

v.

THE QUEEN

I agree.

ROBERT ALLAN BOURKE

v.

THE QUEEN

JUDGMENT  
(ORAL)

OWEN J.

ROBERT ALLAN BOURKE

v.

THE QUEEN

I agree.