

KABLE v. THE DIRECTOR OF PUBLIC PROSECUTIONS
FOR NEW SOUTH WALES FC 96/027

Commonwealth Constitution [1996]
HCA 24 (12 September 1996)

HIGH COURT OF AUSTRALIA
BRENNAN CJ(1), DAWSON(2), TOOHEY(3), GAUDRON(4), McHUGH(5), AND
GUMMOW(6) JJ
HRNG CANBERRA

JUDGE 5 McHUGH J.

The question in this appeal from an order of the New South Wales Court of Appeal is whether the [Community Protection Act 1994](#) (NSW) ("the Act") is a valid law of the Parliament of New South Wales. In my **opinion**, [the Act](#) is invalid.

State courts are part of an Australian judicial system

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"We therefore regard Australian law as a unit. Its content comprises besides legislation the general common law which it is the duty of the courts to ascertain as best they may. But subject always to the binding authority of some disturbing precedent, we treat it as the duty of all courts to recognize that it is one system which should receive a uniform interpretation and application, not only throughout Australia but in every jurisdiction of the British Commonwealth where the common law runs."

Later his Honour referred to [195] :

"the reasons which make it possible for an Australian to regard his country as governed by a single legal system. It is a system or corpus composed of the common law, modified by the enactments of various legislatures."

12. The legal system adopted by [the Constitution](#) continued until the passing of the [Privy Council \(Limitation of Appeals\) Act 1968](#) (Cth). Upon the passing of the Privy Council (Appeals from the High Court) Act 1975 (Cth), an appeal could no longer be taken from the High Court to the Privy Council. That meant that until the enactment of s 11 of the Australia Acts 1986, appeals could still be taken to the Privy Council from the State Supreme Courts. From 1975 until 1986, therefore, the High Court and the Privy Council shared the function of declaring the law of Australia. Moreover, as the Privy Council made plain in Australian Consolidated Press Ltd v Uren [196], the common law of Australia was not necessarily the common law of England or the British Commonwealth. But that there is a common law of Australia as opposed to a common law of individual States is clear. In so far as the remarks of Kitto J in Anderson v Eric Anderson Radio and TV Pty Ltd [197] suggest a contrary view, they cannot be regarded as representing the law [198]. Since 1986, this Court has been the ultimate appellate court of the nation. The right of appeal to the Privy Council having been abolished, the High Court of Australia has the constitutional duty of supervising the nation's legal system and, subject to any relevant statutory or constitutional limitations, of maintaining a unified system of common law.

JUDGE 2: DAWSON J

It may be observed that a legislature wishing to enact a statute ordering that all blue-eyed babies be killed would hardly be perturbed by a principle of law which purported to deny it that power.

AUSTRALIA IN A GEOGRAPHICAL SENSE NOT AS ESTABLISHED UNDER THE Commonwealth of Australia Constitution Act 1901 Proclaimed and Gazetted.

Now we have these so called **TOTALLY CORRUPT**

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| High Court of <u>Australia</u> Act No 137 of 1979 | <u>Australia in a Geographical sense</u> |
| Judiciary Amendment Act No138 of 1979 (No. 2) | <u>Australia in a Geographical sense</u> |
| Evidence Amendment Act No. 139 of 1979 | <u>Australia in a Geographical sense</u> |
| Federal Court of <u>Australia</u> Act No 87 of 1979 | <u>Australia in a Geographical sense</u> |
| <u>Australian</u> Federal Police Act No 58 of 1979 | <u>Australia in a Geographical sense</u> |
| Family Court of <u>Australia</u> under Act No 53 of 1975 | <u>Australia in a Geographical sense</u> |

All under the Political Parties Queen of Australia a Statutory Instrument and the Political Parties Great Seal of Australia.

To create the Political Parties High Court of Australia their Judiciary Amendment Act No138 of 1979 (No. 2) "**removed**" Part II "**CONSTITUTION AND SEAT OF THE HIGH COURT**" (Justices of the High Court, ss. 4-9) (Seat of High Court, ss. 10-14)

Law and Justice Legislation Amendment Act 1988 (Cth) Act No. 120 of 1988 which amended the **Judiciary Act 1903** Section 80, replacing "common law of England" with "common law in Australia".

Clause 5 of the Commonwealth of Australia Constitution Act 1901 Proclaimed and Gazetted expressly guarantees Common Law of England by the words "**The Laws of Any State.**"

The Common law so far as applicable and not modified by colonial or State legislation:

Magna Carta 1215,

Article 52 of which provided:

"To any man whom we have deprived or dispossessed of lands, castles, liberties or rights, without the lawful judgment of his equals, we will at once restore these".



Universal Declaration of Human Rights 1948 - 1998

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

Article 17:

"1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property."

Nuremberg Principles

Principle IV. The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.