132. D Woods

Sorry I cannot complete the submission as per my conversation on Monday 21st Sept as I have got one of my children in hospital and I have been unwell.

I have read most of the 500 odd pages re the draft by the ALRC and the ALRC submission itself, like several other submissions.

1. **Chapter 12 on Privilege Against Self Incrimination  and chapter 14 on Strict and Absolute Liability** as highlighted partially by the ALRC is under Common Law.  As the States and the Federal Parliament are utilizing illegal Roman Law namely strict liability/owner and operator onus etc, this offends against the inherited Common Law as the ALRC has cited several cases I know well, but if I had the time I would include several others.   As per Lipohar v R case 1999 on Common Law local jurisdiction to hear a matter of defrauding the commonwealth.  Several discussions in that case are relevant.    It is noted that he ALRC in their submission cite what Gaudron, Gummow and Hayne cite at para 118 within their Conclusion R v Doot and also the case on Autrefois Convict and Acquit namely R v Aughet (1918) 13 CA Rts at 101.  In this case all Justices cite about Autrefois Convict & Acquit, as you folks would know to be liable for traffic offences by a fine or forfeiture is in breach of inherited UK laws for the Commonwealth inserted after the Interpretation of Leg Act 1889 UK and put into Covering Clause 5 of the Const Act 1900.  For the States it was also continued by Covering Cl 5 but the power of the State Parliament by Section 107 and especially 108 confirms all inherited UK Law.  The Australian Courts Act 1828UK still backed up by the High Court even in 2013 confirms Section 24 on Laws of England to be applied in the administration of justice, **so Strict liability etc, self incrimination for any offence is totally null and void except as you folks should know other than in a royal commission etc**.
2. The Bill of Rights to which I have supplied the WA copy as it is complete compared to what Victoria under their Imperial Acts Application Act 1980 and continued with what C.J Leo Cussen did for the IAAA 1922.  The ALRC has cited the Port of Portland Dec 2010 case v State of Victoria where all 7 Justices agreed on top of page 6 at para 13 and the WA A.G under Bill of Rights on page 5 agreed it was entrenched law.   Also the High Court within para 13 cited Dixon. J in Cam and Sons 1960 that the Bill of Rights was a general constitutional principle.   All inherited law as you folks should know is apart of the constitution of England and therefore can be repealed by UK parliament, but not the Federal, State or Territory Parliaments as the Bill of Rights was created to remove Roman law and the increased interference with the Vatican.

Look at the top of page 3 Quote: “I A.B do swear, **That I do from my heart, abhor, detest, and abjure as impious and heretical, that damnable doctrine and position, that Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever**.  And I do declare, **That no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority ecclesiastical or spiritual, within this realm**:  So help me God.”  End Quote.

As you folks know the line on murdered by their subjects refers within the Bill of Rights number 7 page 2 refers to the Horse, weapon and armour act 1557-8UK still in force where as England back then did not have an army, the people were required to have certain amount of weapons, horses etc to protect the Monarch in brief.

1. Therefore the Federal Parliament by removing the Common Law right of Self incrimination other than in the public’s interest for an enquiry must be declared illegal, and void ab initio.  Only certain Justices within the High court have referred to reverse onus, but this as I agree with should be with certain inherited laws pertaining to stolen or illegally gained property or for benefit.

1. Strict Liability/owner and operator onus must be argued that it breaches inherited laws of England including the Bill of Rights Act 1688-89UK by ensuring Vatican - Roman law or maritime law is precedent over Common Law inherited in the Commonwealth Constitution silently as I agree with Justice Murphy in [Victoria v Australian Building Construction Employees' & Builders Labourers' Federation [1982] HCA 31; (1982) 152 CLR 25 (11 May 1982)](http://www.austlii.edu.au/au/cases/cth/HCA/1982/31.html) at para 13 even quoting Isaacs. J in Cth v Kreglinger 1926.  The Bill of Rights etc have been inserted into the Com Const and Const Act silently as they are apart of our constitutional heritage etc.
2. I do not know if anyone from ALRC etc has read the Annotated Constitution for the Commonwealth of Australia by Quick and Garran 1901 as an official record under Section 118 Com Const and the High Court in cases and applications have confirmed this Annotated Constitution to which all State Courts just ignore,  158 times and at least on 3 occasions by the Privy Council UK.   The people are the ultimate and uncontrolled authority over the Parliaments within Australia, but law students get taught that the Parliaments are sovereign in Australia.  That is misleading.  I have read so many High and other court cases and very few times has any constitutional solicitor or barrister have put that to any court.     You folks have cited Durham Holdings case Jan 2001 on Property acquisition to which the justices were correct.  But Kirby J is correct at para 75 “The significance of the contemporary realisation that the foundation of Australia's [Constitution](http://www.austlii.edu.au/au/legis/cth/consol_act/coaca430/) lies in the will of the Australian people[[151]](http://www.austlii.edu.au/au/cases/cth/HCA/2001/7.html%22%20%5Cl%20%22fn150) has not yet been fully explored”
3. **Chapters 10 on Fair Trial, Chapter 11 on burden of proof**

Both these chapters deal with inherited common law as displayed within the Australian Courts Act 1828UK    A fair trial must remain to ensure that the adversary system of justice in accordance with natural justice prevails.   The Burden proof must remain with all criminal offences and civil claims including administrative law.   As Roman law of the Vatican has emerged since the 1950’s totally in breach of the Bill of Rights and breaching the S106,107 and 108 Com Constitution and Covering Cl 5 Com Const Act with the States and 1960 with the Federal Parliament also as per hansard permitted the issuing of fines under the Airports Surface Act 1960 for parking at Melb and Syd airports.  Any illegal fine other than duly convicted by a court for the Federal parliament is breaching their own powers under Section 51 namely “Shall, subject to this Constitution.” Section 53, several sections of Chapter 3, it breaches the structure of the Com Const namely the Separation of Powers and several High Court Cases and English Cases pertaining to the bill of rights namely that the G.G or Gov cannot create or remove a law without the consent of parliament as the Port of Portland case v State of Vic was about and so as quoted by C.J Griffiths in Clough v Leahy 1904 HCA and quoted in Munday v Gill 1930 and unlawful assembly case.  Both these cases like several others are backed up in many cases, but totally ignored by Government solicitors for the States, so I hope the ALRC does not ignore them.  Fines or seizure of property other than a warrant as the ALRC have outlined by the parliament consenting for the Tax officers, AFP, Customs from 1999 is breaching those sections of hte Com Const and including Covering Clause 5 and S128 as no referendum has ever been held to abrogate inherited Constitutional law namely the UK Bill of Rights etc.

1. **Also Judicial Review under Ch 18, procedural fairness under Ch 15** must remain as you folks have eluded to and I like others have read, this is an important inherited Common Law right either under Customs and usage or inherited court made law.  Administrative law has its merits, but this law appears in many instances even with the States etc, to override entrenched laws of England that were continued after 1900 within the Com Const Act and State Constitutions.   Every Act, Regulation and Rule is meant to provide for the people in some way as one part of responsible government.
2. **Chapter 5 Freedom of Association; Chapter 6 Freedom of movement and Chapter 3 Freedom of Speech.**

We purportedly still live in a democracy.  Freedom of Association without any intervention from U.N and the ICCPR is a part of common law just like Freedom of movement.  Freedom of Association is still being tested with the bikies with another application in the High Court.  Freedom of Association also deals with some other chapters that the ALRC have listed.

Freedom of movement, the ALRC have quoted S92, but the ALRC have pointed out under inherent Common Law that the Parliament’s can abrogate Common Law for Statute Law technically as a last resort but it must be done with clear and unambiguous intention.   There are many other High Court cases on that issue including Section 92 to which were not cited by ALRC.

I have done research on S92 and although it was to deal with essentially guaranteeing trade between the Colonies (States), Owen Dixon in his biography and other texts is correct on S92 and even in R v Vizzard 1933 HCA the justices describe S92 fairly well.   But the term among is the key as Intercourse is travel, trade, communication and sexual intercourse. The ALRC quoted some cases on freedom of media, communication etc.  But the word among was not totally discussed within the Convention debates in 1890’s and nor the Quick and Garran 1901 as Among just does not mean between it also means within.  So this would back up Common Law right to travel as the people of the USA have.  For eg: Blacks 1st Edition law dictionary 1891 and bouviers dictionary 1856, some parts of Webster’s from 1828 that confirm AMONG as between but within a state, territory and if Australia is a union of people with all states and territories as one to make up the Commonwealth of Australia then the people of Australia should be able to travel without any hindrance as long as no one is harmed.

1. **Freedom of Speech** should never be limited and should only be limited if the people of Australia consent by a Referendum.  If freedom of speech is reduced by the purported politicians, then that affects the way a democracy is meant to operate.   Even with Section 28 Com Crimes Act 1914 ensures the right to not to interfere with political liberty unless harm is caused by committing a crime.
2. **Chapter 7 on Property Rights and Chapter 8 on Real Property.**

As the ALRC have outlined yes Cth has the power under S51 (31) Com Const to acquire property on JUST TERMS.  This has been outlined in many High Court cases and of course the Castle movie.   Yes as outlined by Kirby, J and others in Durham holdings v NSW Jan 2001 on acquisition of property, esp Kirby J cited question 4 of the 1988 Com Referendum that the people voted “NO” to.  Question 4 had four separate questions in it.   Yes the States do not have to give Just compensation for acquisition of property but if they purportedly represent the people, they should.    As Estate or Grant in Fee Simple is absolute as stated by Isaacs in NSW v Cth (1) 1923 HCA and is backed up as ALRC would know in Mabo 1992 case and especially Fejo v N.T 1998 HCA.   As the Quick and Garran and convention debates revealed that property was important to preserve under the UK Crown.    Real property unless obtained by fraud or some other illegal act must remain with the owner.

1. **Chapter 4.  Freedom of Religion.**

Yes as the ALRC have outlined S116 Com Constitution ensures that the Fed Parliament can legislate against the provisions of that section.  S116 has been discussed in several High Court cases including [University of Wollongong v Mohamed Naguib Fawzi Ahmed Metwally & others [1984] HCA 74; (1984) 158 CLR 447 (22 November 1984)](http://www.austlii.edu.au/au/cases/cth/HCA/1984/74.html) including the 1985 case.  The parliament must have a referendum to alter S116. But it should be altered as Independent Senator Nick Xenophon has highlighted in the last few years and including what many people know the freemasons and fabian society have had prime ministers and politicians, even current ones as members to which could amount to a foreign allegiance under S44(1) Com Const.

1. **Chapter 9. Retrospective Laws,  Chapter 16. Delegating Legislative Power and Chapter  17. Immunity from Civil** Liability.

Unfortunately there is not enough checks and balances with the Federal or State parliaments enacting retrospective laws or delegating legislative powers as there are many laws that have been created by treaties including the Unidroit treaty on 20th March 1973 linked to the Vatican when you research it.  I like others have researched that the High Court or the Supreme Courts have ever checked a Bill from the G.G and Gov as S22 Aust Courts Act 1828UK was not repealed lawfully by England as no repeal by UK Hansard can be located even by researchers within the UK National, Parliament archives, Privy Council etc. This would cause some problems but no court nor any lawyers want to deal with it.  Under inherit laws of England the people have a lot of protections and that should be paramount.   For treaties to which have altered the Com Constitution there have been over a thousand.  But the only case that I have and others have located is R v Burgess 1936 HCA where Dixon. J and one other cited that all treaties must be subject to the Com Constitution as it was a created power under Section 51.

Also the Royal Styles and Titles Act 1973 to create a fictional Queen of Australia for all appointments of G.G and Gov’s, commissioners, Judges, magistrates etc.  I have like some others done a lot of research on Queen of Australia and NO ACT exists in England at all, there is no amended proclamation for the UK Monarch, Covering Clause 2 which was outlined and confirmed in 1973 hansard has not been repealed by England and if all powers of the Fed Parliament are under Section 51, no referendum was held to which the people of Australia.  The High Court case of Cth v Qld 1975 did not go far enough, nor did Pochi v McPhee 1982, only McHugh. J in Re Senator Patterson 2001 HCA outlined that this Act was done by a mystical process.  McHugh did the forward to Anne Twomey’s book “The Chameleon Crown”.   The people of each State and Territory have never been consulted on these Acts which create a CAUSE OF ACTION against the people due to how acts and appointments have been created.

1. **Immunity from Civil Liability**

As the ALRC have outlined, but as the UK Monarch is immuned from liability themselves that does not include the G.G or Governors.  As the Politicians and Gov and G.G are allegedly representatives of the UK Monarch not the Queen of Australia so the Politicians and Executive in Australia may be liable for actions done.  The politicians also as discussed within the Convention debates by Sir George Grey and also backed up in the Quick and Garran, that the politicians should be liable just like any other citizen.   Also as per the UNHRC case of Corrina Horvath in 2014 stated the State of Victoria was liable as well as police officers.  I know that the Federal Parliament has lost many judgements in the ICC and HRC.

Sorry I could not get a submission done in the proper format as I am still unwell and it I have rushed this today.   I respectfully request that my statements be included for your review for your report to the A.G George Brandis.

Yours Sincerely

David Woods