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# Update Summary

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**UPDATE 60**

**NOVEMBER 2024**

**HIGH COURT PRACTICE**

**G Flick**

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## Updated Commentary

Justice Flick and Allan Flick have reviewed annotations to the following legislation titles, with updated paragraphs and new paragraphs listed as follows.

### The Constitution

- Preamble:
  - [ACA.cl5.26] One common law
- Section 7:
  - [ACA7.60] Directly chosen by the people
- Section 9:
  - [ACA9.20] Method of election of senators
- Section 44:
  - [ACA44.40] Allegiance to a foreign power – s 44(i)
  - [ACA44.60] Convicted and under sentence – s 44(ii)
  - [ACA44.120] Any direct or indirect pecuniary interest – s 44(v)
- Section 51:
  - [ACA51.23] A law of the Commonwealth – the common law
  - [ACA 51.25] Interpretation – A head of power not to be read down by reference to another
  - [ACA51.60] Peace, order and good government – a plenary power
  - [ACA51.vi.50] Preparation for war
  - [ACA51.vi.140] Discipline
  - [ACA51.xvi.80] No power with respect to contracts generally
  - [ACA51.xx.420] Formed within the limits of the Commonwealth
  - [ACA51.xxii.20] General
  - [ACA51.xxiiiA.20] General
  - [ACA51.xxix.20] General
  - [ACA51.xxix.43] Outside geographical limits – an additional factor?
  - [ACA51.xxix.60] Not confined to treaties
  - [ACA51.xxix.80] Purpose – to implement a treaty and proportionality
  - [ACA51.xxxi.20] General

- [ACA51.xxxix.60] Matters incidental to the execution of a power
- [ACA51.vi.50] Preparation for war
- [ACA51.vi.140] Discipline
- [ACA51.xvi.80] No power with respect to contracts generally
- [ACA51.xx.420] Formed within the limits of the Commonwealth
- [ACA51.xxii.20] General
- [ACA51.xxiiiA.20] General
- [ACA51.xxix.20] General
- [ACA51.xxix.43] Outside geographical limits – an additional factor?
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- [ACA51.xxix.80] Purpose – to implement a treaty and proportionality
- [ACA51.xxxi.20] General
- [ACA51.xxxix.60] Matters incidental to the execution of a power
- Section 57:
  - [ACA57.20] General
- Section 61:
  - [ACA61.21] Statutory v Non-statutory executive power
  - [ACA61.25] The Executive and the Judiciary
  - [ACA61.85] "... and extends to ..."
  - [ACA61.93] Executive power – susceptible of control by statute
- Section 64:
  - [ACA64.20] General
- Section 71:
  - [ACA71.23] The High Court of Australia
  - [ACA71.180] Military tribunals
- Section 72:
  - [ACA72.30] Appointment
- Section 73:
  - [ACA73.130] A court exercising federal jurisdiction – s 73(ii)

- Section 76:
  - [ACA76.40] Original jurisdiction – confined to a “matter”
- Section 88:
  - [ACA88.20] General
- Section 90:
  - [ACA90.30] The practical operation of a law – substance over form
  - [ACA90.60] Excise
- Section 114:
  - [ACA114.100] A Commonwealth tax on State property
- Section 117:
  - [ACA117.20] General
- Section 122:
  - [ACA122.80] Acquiring a territory
  - [ACA128.130] Access to information
- Section 128:
  - [ACA128.240] Alterations to date

### **Judiciary Act**

- Section 35A:
  - [JUD35A.20] General
  - [JUD35A.50] A cross-appeal
  - [JUD35A.340] Costs
- Section 40:
  - [JUD40.20] General
- Section 78A:
  - [JUD78A.40] Intervention by persons other than Attorney-General

### **High Court Rules**

- Rule 6.07:
  - [HCR6.07.20] Refusal to issue or file – without leave

- Rule 25.09:
  - [HCR25.09.30] Referring an application - r.25.09.3(d)
- Rule 40.01:
  - [HCR 40.01.20] Interpretation

#### **Statute of Westminster Adoption Act 1942**

- Section 3:
  - [SOW3.20] General

#### **Australia Act 1986**

- Section 6:
  - [AA6.20] General

