

EVIDENCE

Chapter 1: Introduction to Australian Law				
Section	Summary	Evidence	Facts	Judgement
[1.25] [1.27] [1.29] [1.30]	- Federation. - Federal parliament jurisdiction. - State parliament jurisdiction.	Commonwealth of Australia Constitution Act 1900 (UK).	Federation – allow for trade and free movement, ending the power of the British Parliament to enact laws (sovereign nation). Power for Australia to make and apply law.	Section 51 of the Australian Constitution details matters about which the federal parliament (executive powers) can make law (trade/commerce with other countries, taxation, currency, marriage). The state parliament has the power to make laws not under section 51 (residual powers – health and education).
[1.26]	- Terra nullius	Mabo v Queensland (No 2) (1992) 175 CLR 1; 107 ALR 1; [1992] HCA 23	High Court overturned the doctrine of terra nullius (allowing ATSI people to hold native title over land and waters).	
		Native Titles Act 1993 (Cth)	Terra nullius – passed in this act.	
		Wik Peoples v Queensland (1996) 187 CLR 1; 141 ALR 129; [1996] HCA 40	High Court of Australia held that native titles could coexist with a pastoral lease given by the Crown over land.	
		Native Title Amendment Act 1998 (Cth)	Provided for native title to coexist with mining leases as well as placing restrictions such as land providing public amenities.	
[1.31]	- Federal law prevails over state law.	Botany Municipal Council v Federal Airports Corporation (1992) 175 CLR 453; 109 ALR 321	Section 109 of the Constitution, federal law always prevails in conflicts between state and federal law.	
[1.40]	- Second reading of a bill.	Building and Construction Industry Security of Payment Bill 1999 (NSW)	Purpose was to held all contractors in the construction industry to receive progressive payments. Second reading – showed the purpose to financially protect smaller trade contractors ‘small subcontractors... not paid for work’.	