

## Topic 6 The external affairs head of power s51(29)

### Rules/tests:

Limb 1: Extraterritorial Matters: power to legislate on matters which are geographically external to Australia e.g. *War Crimes Act case 1991*, *Horta v Cth 1994*

Limb 2: Relations with other countries: power to legislate with respect to relations with other nations e.g. *The Queen v Sharkey 1949*

Limb 3: Implementation of treaties e.g. *Koowarta case 1982*

-draft treaties, recommendations, resolutions are supported by this limb (*Thomas v Mowbray 2007*)

Limb 4: Matters of international concern e.g. *Koowarta case 1982*

### Constraints:

-Treaty must be on a matter of international concern

a) treaty must be entered in good faith

b) requirement of sufficient specificity

c) legislation must be reasonably capable of being considered appropriate and adapted to implementing the treaty.

## Topic 6 The defence head of power s51(6)

### Rules/tests:

Defence head of power enables the cth to legislate against internal as well as external threats (*Thomas v Mowbray*)

### Cases:

-very broad during war times e.g. *Communist party case 1951*

-interim control orders could be issued to suspected terrorists e.g. *Thomas v Mowbray 2007*

### Constraints:

-purposive power, will only support legislation for the purpose of defence.