

**ANNOTATED NOTES: QUICK & GARRAN
(LAW of COMMONWEALTH p809)**

“The phrase, 'any law of the Commonwealth', includes, in the first place, the Constitution itself; which is not only a law of the Commonwealth, but in a sense, and with the reservation of the supremacy of the British Parliament, may be called the supreme law of the Commonwealth. It includes, in the next place, the laws of the Federal Parliament; which, together with the Constitution, are, binding on the Courts, Judges and people of every State, and of every part of the Commonwealth. (Constitutional Act, Clause 5) ”.

BRITISH SOVEREIGNTY

ANNOTATED CONSTITUTION NOTES: QUICK & GARRAN (STATES p928)

“The Constitution is the title, the master, and the guardian of all these various governing agencies. At the back of the federal and State Governments are the quasi - sovereign people of the Commonwealth, organized within the Constitution as a quasi - national State; they can alter the instrument of Government, abolishing existing institutions of Government, and substituting new ones, subject only to its special provisions and the Imperial supremacy. The States, therefore as governing organizations, are not inferior in origin or status to the Federal governing organizations. Both are equally subject to the law of the Constitution, and equally entitled to its protection ”.

BRITISH SOVEREIGNTY

ANNOTATED CONSTITUTION NOTES: QUICK & GARRAN (STATES p928)

“The States existed as colonies prior to the passing of the Federal Constitution, and possessed their own charters of Government, in the shape of the Constitutions granted to them by the Imperial Parliament. Those Charters have been confirmed and continued by the federal Constitution, not created thereby. Hence, though the powers reserved to the States are not wide, general and national, no badge of inferiority or subordination can be associated with those powers, or with the State institutions through which they are exercised. State powers and State institutions, Federal powers and Federal institutions, all spring directly from the same supreme source - British Sovereignty”

SOVEREIGNTY (THE PEOPLE)

“I stated further that if the question was asked of some politician who had not considered the subject with sufficient accuracy, where the supreme power resided in our Government, he would answer that it was vested in the State Constitutions. This opinion approaches near the truth, but does not reach it, for the truth is the supreme absolute and uncontrollable authority remains with the people ”.

(Referring to the U.S Constitution) (Annotated Notes: Quick & Garran, p.286)

WITHIN THE DOMAIN of JURISDICTION

“To be valid and binding they must be within the domain of jurisdiction mapped out and delimited in express terms, or by necessary implication, in the Constitution itself. What is not so granted to the Parliament of the Commonwealth is denied to it. What is not so granted is either reserved to the States, as expressed in their respective Constitutions, or remains vested but dormant in the people of the Commonwealth ”.

[The Annotated Constitution Quick & Garran Page 346]

WITHIN THE LIMITS OF DELEGATION

“The act itself is binding without limitation or qualification because it is passed by the sovereign Parliament, but the laws passed by the Parliament of the Commonwealth, a subordinate Parliament, must be within the limits of the delegation of powers or they will be null and void ”.

[The Annotated Constitution Quick & Garran Page 346]

A LAW IN EXCESS OF AUTHORITY

“Not all enactments purporting to be laws made by the Parliament are binding; but laws made under, in pursuance of, and within the authority conferred by the Constitution, and those only, are binding on the courts, judges, and people. A law in excess of the authority conferred by the Constitution is no law; it is wholly void and inoperative; it confers no rights, it imposes no duties; it affords no protection ”.

(Norton v Shelby County 118 U.S.425)

[The Annotated Constitution Quick & Garran Page 346]