

## **KUCZBORSKI v. THE STATE OF QUEENSLAND (B14/2014)**

Writ of summons filed: 19 March 2014

Date special case referred to the Full Court: 23 June 2014

On 15 October 2013, the Queensland Government introduced into State Parliament three Bills: the *Vicious Lawless Association Disestablishment Bill 2013*, the *Criminal Law (Criminal Organisations Disruption) Amendment Bill 2013* and the *Tattoo Parlours Bill 2013*. Each of the three bills passed in the Legislative Assembly and commenced on 17 October 2013.

The issues are: whether the Plaintiff has standing to obtain declaratory relief in respect of the *Vicious Lawless Association Disestablishment Act 2013* (Qld) (“the VLAD Act”) and certain impugned provisions of the *Criminal Code* (Qld) (“the Criminal Code”) and the *Bail Act 1980* (Qld) (“the Bail Act”); whether the relief that the Plaintiff seeks in respect of the VLAD Act and certain of the impugned provisions would be hypothetical; and whether the VLAD Act and the rest of the impugned provisions are invalid for infringing the principle identified in *Kable v Director of Public Prosecutions (NSW)* (“the Kable principle”).

The Plaintiff is a current member of the Brisbane Chapter of the Hells Angels Motorcycle Club (“HAMC”) and a former office bearer of a Sydney Chapter of the HAMC. The HAMC is declared to be a “criminal organisation” for the purposes of the Criminal Code and the *Crime and Corruption Act 2001* (Qld).

The Plaintiff contends that the VLAD Act and various aspects of the amendments made to the Criminal Code and other legislation by the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013* and the *Tattoo Parlours Act 2013* and which may apply to him as a “participant in the affairs of an association” and a member of a deemed “criminal organisation” offend the Kable principle and are thereby invalid.

A notice of constitutional matter was filed by the plaintiff on 25 March 2014. The Attorney-General of the Commonwealth and the Attorneys-General for Victoria, Western Australia, South Australia, Northern Territory and New South Wales are intervening.

The questions stated in the Further Amended Special Case for the opinion of the Full Court include:

- Does the plaintiff have standing to seek a declaration that any, and which, of the provisions referred to in the schedule to these questions (other than the Criminal Code sections 60A, 60B(1) and 60C and the *Liquor Act 1992* (Qld) sections 173EB to 173ED) is invalid?
- Is the relief which the plaintiff seeks in answer to question 3 (other than the relief sought in relation to the Criminal Code sections 60A, 60B(1) and 60C and *Liquor Act 1992* (Qld), sections 173EB to 173ED) hypothetical?
- Is any, and which, of the provisions referred to in the schedule invalid on the ground that it infringes the Kable principle?