

Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920) 28 CLR 129

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Facts

- A union of engineers commenced a claim in the Commonwealth Court of Conciliation and Arbitration against Adelaide Steamship Co Ltd for an award relating to 844 employers across Australia.
- In Western Australia, the employers included three State governmental employers.
- The issue was whether a Commonwealth law made under section 51(xxxv) of the Constitution, the "conciliation and arbitration" power regarding industrial disputes, could authorise the making of an award binding the three State employers.

Issues

- Could the Commonwealth make a law under the "conciliation and arbitration" power which bound the State employers?

Held

- The High Court majority, led by Isaacs J, held that the Commonwealth could bind the State governmental employers under the "conciliation and arbitration" power in respect to industrial disputes.
- The laws of the Commonwealth and the States have full operation within the subjects upon which they have power to legislate, subject to section 109 in the event of inconsistency.
- Commonwealth laws could bind the States and State laws could bind the Commonwealth.
- The Court rejected using American precedents of constitutional interpretation. Rather, the Court adopted the settled rules of construction that gave primacy to the text of the Constitution and anchored its interpretation to its express words and meaning.
- This changed the course of constitutional interpretation and the views of Australian federalism - the primacy of the Commonwealth over the States had begun.

Impact and Significance

- Sir Anthony Mason has written extra-curially:

"The combination of literal interpretation and a broad construction of Commonwealth powers led to the Commonwealth assuming a dominant position in the Australian federation vis-a-vis the states. The *Engineers case* ushered in a period of literal interpretation of the Constitution. Literal interpretation and

legalism (of which Sir John Latham was the chief exponent) were characteristic of the Court's constitutional interpretation for the greater part of the 20th century."

(Anthony Mason, "High Court of Australia: A Personal Impression of its first 100 years" (2003) 27 Melbourne University Law Review 864)

Full Text

The full text is available here: <http://www.austlii.edu.au/au/cases/cth/HCA/1920/54.pdf>

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