

Bateman's Bay Local Aboriginal Land Council v The Aboriginal Community Benefit Fund Pty Limited (1998) 94 CLR 247

<https://lawcasesummaries.com/knowledge-base/batemans-bay-local-aboriginal-land-council-v-the-aboriginal-community-benefit-fund-pty-limited-1998-94-clr-247/>

Facts

- Under the *Funeral Funds Act 1979* (NSW), the Aboriginal Community Benefit Fund Pty Ltd (ACBF) operated a funeral fund that Aboriginal people could join for between \$4 - \$26 a fortnight.
- Bateman Bay's Local Aboriginal Land Council (BBLALC) also opened a funeral fund, which would charge between \$15 and \$20 per year. For this, they used largely public money derived from land tax.
- ACBF brought proceedings saying that BBLALC was in breach of sections of the Act.
- BBLALC said they did not have standing, as generally it is the Attorney-General who enforces public rights regarding public money, and they didn't have a special interest - although they may have been financially affected, this was "indirect".
- ACBF disagreed, saying they had a financial interest in the matter sufficient to give them standing.

Issue

- Did ACBF have standing to sue to get an equitable remedy?

Held

- The Court considered the development of English law, which had held that the Attorney General is usually the only one with the right to enforce public laws. The Court noted differences between England and Australia's framework: namely, that in the UK, the Attorney General is not usually part of the Cabinet; and the Constitution.
- Therefore, the Court held that the position of Australia was different.
- It did not view the "public money" issue as meaning only the A-G could bring proceedings
- Further, the Court did not agree that the cases could be divided into "direct" and "indirect" financial interests and felt this was too narrow an interpretation.
- Instead, applying the test from the [SDA Case](#) about trading hours, the Court found that ACBF had a sufficient interest beyond that of an ordinary person to enforce the *Funeral Funds Act*.
- Therefore ACBF succeeded in its appeal.

Quote

- "The primary judge found that because the parties would be operating in substantially the same

limited market it was highly probable that, if not restrained from commencing and concluding their activities, the appellants would cause severe detriment to the business of the respondents. That, in the circumstances of this litigation, gave the respondents a sufficient special interest to seek equitable relief." (Gaudron, Gummow and Kirby JJ at [52])

Read more

- Full text available at <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1998/49.html>

Law case summary from www.lawcasesummaries.com