New South Wales v Commonwealth (2006) 229 CLR 1 ("WorkChoices Case")

https://lawcasesummaries.com/knowledge-base/new-south-wales-v-commonwealth-2006-229-clr-1-workchoices-case/

Facts

- In 2005, the Federal Government passed the WorkChoices legislation. WorkChoices was comprehensive industrial relations reform legislation.
- The two most critical changes in this legislation were:
    - the elimination of State and Territory workplace relations legislation from the Federal industrial arena; and
    - the almost complete reliance on section 51(xx) of the Constitution (the corporations power) to directly prescribe minimum terms and conditions of employment regardless of the existence of an intrastate industrial dispute.
- New South Wales, South Australia, Western Australia, Queensland, Victoria, the AWU and the UNSW (as Plaintiffs) challenged the validity of the legislation.
- The Plaintiffs argued that argued there were three alternative limitations on the corporations power:
    - it was limited to regulation of corporations' external relationships;
    - it was limited to laws in which the nature of the corporation was significant; and/or
    - it was limited by the existence of the conciliation and arbitration power.
- The Plaintiffs continued with the argument that the WorkChoices legislation was actually directed at industrial relations, and only remotely connected with corporations.
- The Commonwealth argued that section 51(xx) supported any law that directly created, altered, or impaired the rights, powers, duties, liabilities or privileges of a corporation.

Issues

- Was the WorkChoices legislation a valid exercise of power by the Commonwealth?

Held

- The High Court majority (Gleeson CJ, Gummow, Hayne, Heydon & Crennan JJ) held that the legislation was valid. The High Court found that the corporations power could support the legislation, as well as the conciliation and arbitration power of the Constitution.
- The High Court also held that the legislation could validly limit State powers and did not interfere with State constitutions or functioning.
- The majority of the High Court rejected the plaintiffs' argument that the corporations power was limited to external relationships and state that it was inappropriate to draw distinctions between the external and internal relationships of a corporation.

- The High Court also did not accept the Plaintiffs' argument that the nature of a corporation had to be a crucial element in the law. The corporations power was validly exercised if a law prescribed norms regulating the relationship between corporations and their employees.
- Finally, the Plaintiffs' argument that the corporations power had to be limited by the existence of the conciliation and arbitration power was rejected. This submission was contrary to the interpretation of the Constitution's text and structure and High Court precedent since at least 1920.

Quotes

"A law which prescribes norms regulating the relationship between constitutional corporations and their employees, or affecting constitutional corporations in the manner considered and upheld in *Fontana Films* or, as Gaudron J said in *Re Pacific Coal*, "laws prescribing the industrial rights and obligations of [constitutional] corporations and their employees and the means by which they are to conduct their industrial relations" are laws with respect to constitutional corporations."

(Gleeson CJ, Gummow, Hayne, Heydon & Crennan JJ at [198])

Full Text

The full text is available here:

http://www6.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2006/52.html

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