

Onus v Alcoa Australia Ltd (1981) 149 CLR 27

<https://lawcasesummaries.com/knowledge-base/onus-v-alcoa-australia-ltd-1981-149-clr-27/>

Facts

- Alcoa was a mining company that owned land traditionally belonging to the Gournditch-jmara Aboriginal people.
- Alcoa planned works on the land which the Gournditch-jmara people alleged would be a breach of the *Relics Act* as it would destroy artefacts that are sacred in their culture.
- The Gournditch-jmara did not contest that they did not have any financial stake in the artefacts.
- Onus, on behalf of the Gournditch-jmara, sued Alcoa.
- Alcoa argued that Onus did not have standing as they had only a mere "intellectual or emotional concern" which was not sufficient to establish standing in [Australian Conservation Foundation v Commonwealth](#).

Issue

- Did the Aboriginal group have standing to sue?

Held

- Unanimously, the Court allowed the appeal, finding that Onus (on behalf of the Gournditch-jmara) did have standing to sue.
- Gibbs CJ articulated some off the policy reasoning for the standing rule and only allowing those with a 'special interest' to sue, including that without it, every "busybody" may start launching legal battles, and that the law is supposed to work out genuine disputes.
- Each Justice, however, found that the Gournditch-jmara group were a small class that had a particular interest in the preservation of the artefacts, that was greater than the public at large.
- They held it did not need to be a financial interest, it only needed to be that there was a greater interest than the public at large.
- They differentiated this case from *ACF*, explaining that while each case is a matter of fact and degree, in this instance, their connection was beyond a "emotional and intellectual" interest. It was cultural.
- This was despite the fact that the *Relics Act* was for the benefit of the public at large, they found it undeniable that the Gournditch-jmara were particularly affected.

Significance

- This decision is significant because it shows that each "standing" case must be assessed on its merits and facts. Also, a "special interest" to give standing does not need to be a financial interest - it can be cultural, but it must be more than 'intellectual or emotional'.

- Note this case did not decide whether the breaches had occurred, it was an interlocutory appeal on the issue of standing only.

Quotes

- "It is sufficient for standing that a plaintiff have an interest exceeding that of members of the public generally in preventing breach of a public right or in securing the performance of a public duty. The interest need not be peculiar to the plaintiff. It is enough that the plaintiff's interest, even if many others also have it, is not the same as that of members of the public generally. A legal interest is not necessary to establish standing; it need not be proprietary; a cultural or other interest may suffice" (Murphy J at [4])
- "It is not necessary to show that the plaintiff is uniquely affected; there may be some others whose interests may be affected in like manner. This will be the case where a statute protects the interests of a class, stopping short of conferring personal rights upon the members of the class" (Brennan J at [27])

Read more

- Full text is available at <https://jade.io/article/66936>

Law case summary from www.lawcasesummaries.com