

Victoria v Commonwealth (1971) 122 CLR 353 ("The Payroll Tax Case")

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Facts

- The Commonwealth passed the *Payroll Tax Act 1941* (Cth) (**the Act**). The Act imposed a 2.5% tax on all wages paid by an employer. It also applied to all state employers.
- Victoria challenged the Act on the grounds that it breached the *Melbourne Corporation* principles limiting the extent to which the Commonwealth can burden states.

Issues

- Whether the Commonwealth may by a law of taxation not confined in its operation to States, impose a tax upon a State.

Held

- The High Court held that the imposition of payroll taxes on the state government as an employer is a valid exercise of the federal taxation power.
- Windeyer J noted that the increased entry of the Commonwealth in areas of concurrent federal and state power was foreseen early on by the Framers. The eventual increased fiscal power of the Commonwealth was indicative of this notion.
- The States had agreed willingly to become a single federal entity by giving up some of their powers without gaining any new ones. The High Court interpreted the gradual centralisation of power in the Commonwealth as having grown from this process.

Quotes

"...in my opinion, the statement that the imposition of this tax threatens or impairs the independence of the State is, as a statement of a legal conclusion, unwarranted."

(Barwick CJ at page 374)

Full Text

The full text is available here:

<http://www7.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1971/16.html>

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