

CONSTITUTIONAL LAW CASE NOTES



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SAMPLE

AMALGAMATED SOCIETY OF ENGINEERS V THE ADELAIDE STEAMSHIP COMPANY LIMITED (1920) 28 CLR 129 (THE ENGINEERS' CASE)

- Court details

The High Court of Australia

- Procedural history

This was originally planned to be heard in the Commonwealth Court of Conciliation and Arbitration. However, the president of the Court, Higgins J, stated a case for the opinion of the Full High Court under s 18 of the Judiciary Act 1903 (Cth). The Full High Court obliged and heard the case.¹

- Facts

The Amalgamated Society of Engineers (the Engineers) served a log of claims on 844 employers in a number of the Australian states. They were claiming from them improved wages and conditions of employment for the unions' members. One of the employers they served a log of claims on was the Minister for Trading Concerns of Western Australia. The Minister administered the state Implement and Engineering Works and the State Sawmills. These two bodies were established and regulated by the Western Australian Government. After the Engineers claims were refused they applied to the Commonwealth Court of Conciliation and Arbitration for a determination of the industrial dispute under federal conciliation and arbitration legislation which was meant to be recognised by s 51(xxxv) of the Constitution.²

This section provides:

¹ Jennifer Clarke, Patrick Keyzer and James Stellions, *Hanks Australian Constitutional Law: Materials and Commentary* (Lexis Nexis Butterworths Australia, 9th ed., 2013), 500.

² Ibid 54-55.

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good governance of the Commonwealth with respect to...(xxxv) conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State.³

The Commonwealth Court of Conciliation and Arbitration obtained its jurisdiction to hear that matter from s 18 of the Conciliation and Arbitration Act 1904 (Cth). The respondents objected that the Commonwealth Court of Conciliation and Arbitration could not apply to them as employers.⁴

- Issues

The issue in this case revolved around Section 51 (xxxv) which is the so called industrial relations power.

The Court was asked to determine two questions:

- Whether the federal parliament had the power to make laws under s 51(xxxv) which bound the state government instruments in their capacity as employers
- Whether a dispute existed in fact between the Engineers and the Minister for Trading Concerns of Western Australia.⁵

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3 Ibid 55.

4 Ibid 500.

5 Ibid 55.