

# Constitutional Law Case Bank

## Week 2: Constitutional Interpretation and Characterisation

Case	Facts	Constitutional law issue	Significance
<p><i>Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920) 28 CLR 129</i></p>	<ul style="list-style-type: none"> <li>- A union of engineers commenced a claim in the Commonwealth Court of Conciliation and Arbitration against Adelaide Steamship Co Ltd for an award relating to 844 employees across Australia.</li> <li>- In Western Australia, the employers included three State governmental employers.</li> </ul>	<p>Could a Cth law made under the 'conciliation and arbitration' power (s 51(xxxv)) authorise an award binding those WA government employers?</p>	<p>It swept away the earlier doctrines of implied intergovernmental immunities and reserved state powers, thus paving the way for fundamental changes in the nature of federalism in Australia.</p> <p>Isaacs J successfully introduced a new method of interpretation whereby no areas of law were assumed to be reserved to the States.</p> <p>Australia was constituted to be a federation was allowed to play "no significant part in determining the meaning and scope of the various powers conferred by s 51 of the Constitution"</p>
<p><i>Love v Cth of Australia; Thoms v Cth of Australia [2020] HCA 3</i></p>	<ul style="list-style-type: none"> <li>- The Plaintiffs, Daniel Love and Brendan Thoms, were both born overseas with one Aboriginal Australian parent and both identify as Aboriginal Australian.</li> <li>- Both Plaintiffs had been recognised as members of an Aboriginal community.</li> <li>- However, neither Mr Love nor Mr Thoms sought to become Australian citizens.</li> <li>- The Commonwealth sought to deport both Plaintiffs pursuant to s 501(3A) of the Migration Act 1958 (Cth), on the basis that both were serving a term of imprisonment of 12 months or</li> </ul>	<p>The Commonwealth sought to deport both Plaintiffs pursuant to s 501(3A) of the Migration Act 1958 (Cth), on the basis that both were serving a term of imprisonment of 12 months or more. The Commonwealth argued that, since the Plaintiffs were not citizens, they were necessarily aliens, and therefore the</p>	<p>The majority judges focused upon the strong connection of Aboriginal people with their traditional lands and waters, noting that it was not only a legal connection, but also a spiritual, cultural and religious one.</p> <p>While the judgments in the Love and Thoms case will have a relatively narrow direct effect — only protecting Aboriginal non-citizens from deportation — the broader ramifications of the court's analysis of the connection of Aboriginal people to their land and waters will take decades to resolve.</p>

# Constitutional Law Case 2002

**ML Yell**



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