



HIGH COURT OF AUSTRALIA

27 February 2013

ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA v CORPORATION OF THE CITY OF ADELAIDE & ORS

[2013] HCA 3

Today a majority of the High Court allowed an appeal against a decision of the Full Court of the Supreme Court of South Australia, which had held that a by-law made by the Corporation of the City of Adelaide ("the Council") infringed the implied constitutional freedom of communication on government and political matters. Certain provisions of the by-law prohibited persons from preaching or distributing printed matter on any road to any bystander or passer-by without permission ("the impugned provisions"). The second and third respondents, Caleb and Samuel Corneloup ("the Corneloups"), were members of an association, "Street Church". They wished to preach in the streets of the City of Adelaide.

The Corneloups each commenced proceedings in the District Court of South Australia, seeking a declaration that the impugned provisions were invalid. The District Court declared that parts of the impugned provisions exceeded the by-law making powers conferred on the Council by the *Local Government Act 1934* (SA) and the *Local Government Act 1999* (SA) ("the Local Government Acts"). The Full Court dismissed an appeal from the District Court's decision. Although the Full Court held that the impugned provisions were not invalid for want of compliance with the Local Government Acts, the Full Court held that they infringed the implied constitutional freedom of communication on government and political matters and were therefore invalid. By grant of special leave, the Attorney-General for South Australia (who was a party to the appeal in the Full Court) appealed to the High Court.

A majority of the High Court held that the Local Government Acts empowered the Council to make the impugned provisions. The impugned provisions were a valid exercise of the Council's statutory power to make by-laws for the good rule and government of the area, and for the convenience, comfort and safety of its inhabitants. The majority also rejected the contention that the impugned provisions were constitutionally invalid. Although the impugned provisions effectively burdened political communication, they did not infringe the implied constitutional freedom. The impugned provisions served a legitimate end in a manner compatible with the maintenance of the constitutionally prescribed system of representative and responsible government.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*