



HIGH COURT OF AUSTRALIA

Public Information Officer

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ROBERT PETER AUSTIN AND KATHRYN ELIZABETH KINGS v
THE COMMONWEALTH OF AUSTRALIA

The High Court held invalid Commonwealth legislation imposing a superannuation contributions surcharge on state judges, holding by majority that it placed an unconstitutional burden or disability on the operations or activities of states and was beyond power.

Justice Austin is a New South Wales Supreme Court judge and Master Kings is a member of the Victorian Supreme Court. They argued the surcharge did not apply to their pension entitlements, but if it did apply it was invalid. Their argument that the surcharge was invalid was supported by the states of NSW, Victoria, South Australia and Western Australia which intervened.

The High Court held unanimously that the legislation applied to Justice Austin but by majority held that in its application it was invalid.

The Court unanimously held that Master Kings was not liable to pay the surcharge because she was appointed before the surcharge took effect in 1997. It did not apply to serving judges, and the Court held that she was, within the meaning of the legislation, a judge.

- *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.*