H. C. OF A. 1908.

ATTORNEY-GENERAL OF N.S.W. v. COLLECTOR OF CUSTOMS FOR N.S.W.

Questions answered accordingly.

Solicitor, for the plaintiff, *The Crown Solicitor for the Commonwealth.*

Solicitor, for the defendant, *The Crown Solicitor for New South Wales.*

C. A. W.

[HIGH COURT OF AUSTRALIA.]

CAMERON . . . . . APPELLANT;
PLAINTIFF,

AND

IRWIN AND OTHERS . . . . . RESPONDENTS.
DEFENDANTS,

ON APPEAL FROM THE SUPREME COURT OF WESTERN AUSTRALIA.

H. C. OF A. 1908.

MELBOURNE, *February* 24.

Griffith C.J., Barton, O'Connor, Isaacs and Higgins JJ.

Appeal to High Court—Special leave.

In an action in the Supreme Court of Western Australia the jury found a verdict for the plaintiff for £200, and judgment was entered accordingly. On application to the Full Court to set aside the judgment on the ground of absence of evidence, the Full Court reversed the judgment below and entered judgment for the defendants.

Special leave to appeal to the High Court was refused.

APPLICATION for special leave to appeal.

An action was tried in the Supreme Court of Western Australia at Kalgoorlie, by *Burnside* J. and a jury, by which the plaintiff Robert Miles Fletcher Cameron, a legally qualified

medical practitioner, sought to recover from the defendants Henry Offley Irwin and three others, who were also legally qualified medical practitioners, damages for injury sustained by reason of the defendants having combined to injure him in his profession. The jury found a verdict for the plaintiff for £200 damages, and judgment was entered accordingly.

The defendants applied to the Full Court to set aside the judgment on the ground that there was no evidence that the object of the defendants was to injure the plaintiff. On 23rd December 1907 the judgment was reversed and judgment was entered for the defendants with costs.

The plaintiff now applied to the High Court for special leave to appeal from the judgment of the Full Court.

Starke, for the appellant. The Full Court has entered judgment for the defendants without setting aside the verdict of the jury and without any motion to set it aside, and there were no grounds for setting it aside. There is no authority for such a course being taken.

[GRIFFITH C.J.—Special leave to appeal is never granted on a technical error.]

It is very important that the principle of not interfering with the verdict of a jury should be upheld.

[*Villeneuve Smith* referred to *Rules of Supreme Court*, Order XXXVI. No. 10; *National Mutual Life Association of Australasia Ltd.* v. *Kidman* (1).]

There there was a motion for a new trial.

[ISAACS J. referred to *Scown* v. *Howarth* (2); *Ogilvie* v. *West Australian Mortgage and Agency Corporation* (3).]

There was evidence from which reasonable men could find that the combination of the respondents, however well formed, was used to oppress the appellant and did injure him. [Counsel also referred to *Martell* v. *Victorian Coal Miners' Association* (4); *Dublin, Wicklow and Wexford Railway Co.* v. *Slattery* (5); *Wakelin* v. *London and South Western Railway Co.* (6).]

(1) 3 C.L.R., 160.
(2) 25 V.L.R., 88; 21 A.L.T., 36.
(3) (1896) A.C., 257.
(4) 29 V.L.R., 475, at p. 496; 25 A.L.T., 120.
(5) 3 App. Cas., 1155.
(6) 12 App. Cas., 41.

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CAMERON v. IRWIN.

Villeneuve Smith for the respondents, was not heard.

GRIFFITH C.J. The question is entirely one of fact. Special leave will be refused, and the motion will be dismissed with costs.

Special leave refused.

Solicitors, for the appellant, *Gillott, Bates & Moir* for *Haynes, Robinson & Cox*, Perth, for *Keenan & Randall*, Kalgoorlie.

Solicitor, for the respondents, *Horace B. Joseph.*

B. L.

[HIGH COURT OF AUSTRALIA.]

McLAUGHLIN . . . . . APPELLANT;
DEFENDANT,

AND

FREEHILL . . . . . RESPONDENT.
PLAINTIFF,

ON APPEAL FROM THE SUPREME COURT OF NEW SOUTH WALES.

H. C. OF A. 1908.

SYDNEY, *April* 22, 23.

Griffith C.J., Barton and Isaacs JJ.

Solicitor and client—Retainer by lunatic—Costs of proceedings to set aside lunacy order—Necessaries—Action by solicitor for costs—Pleadings—Res judicata—Amendment.

M. who had been declared insane by the Supreme Court, retained a solicitor to act for him in an application to have the lunacy order set aside. Before making the application the solicitor obtained an order from the Court directing that his costs of the application should in any event be paid by the committee out of M.'s estate. The application was then made and dismissed, and the previous order as to the solicitor's costs was embodied in the order dismissing the application. Before the costs had been paid M. recovered his sanity, and having been declared sane by the Court and having had the management of his estate restored to him, refused to pay the costs.