

## [HIGH COURT OF AUSTRALIA.]

DICKASON (OTHERWISE CALLED WILLIAMS) APPELLANT;  
PETITIONER,

AND

DICKASON . . . . . RESPONDENT.  
RESPONDENT,

ON APPEAL FROM THE SUPREME COURT OF  
VICTORIA.

H. C. OF A.  
1913.

*Practice—High Court—Appeal from Supreme Court of State—Hearing in camera*  
—*Matrimonial cause—Nullity—Judiciary Act 1903-1910 (No. 6 of 1903—No.*  
34 of 1910), sec. 15.

MELBOURNE,  
Sept. 11.

In the absence of statutory provision to the contrary the jurisdiction of the  
High Court must be exercised in open Court.

Barton A.C.J.,  
Isaacs,  
Gavan Duffy,  
Powers and  
Rich JJ.

Oct. 15.

Isaacs,  
Gavan Duffy  
and Powers JJ.

MOTION.

Before *Hood J.* in the Supreme Court of Victoria a petition was heard whereby Daisy Wycott Dickason (otherwise Daisy Wycott Williams) sought a declaration that her marriage with Thomas Henry Dickason was null and void. The learned Judge having dismissed the petition and directed the parties to abide their own costs of the cause, the petitioner appealed to the High Court.

The petitioner now applied to the High Court by motion that the appeal should be heard *in camera*, the respondent consenting to the application being granted.

*Morley*, in support of the motion. This Court has inherent jurisdiction to hear an appeal *in camera*.

[ISAACS J. Under sec. 15 of the *Judiciary Act* the jurisdiction of this Court must be exercised in open Court.]

That is only an empowering section. Under secs. 16 and 21 of the *High Court Procedure Act*, rules might be made allowing hearings *in camera*. The effect of a hearing in open Court may be to prevent persons coming forward to give evidence, and so to prevent justice being done. [He also referred to *Scott v. Scott* (1); *Harrison v. Harrison* (2); *Marriage Act* 1890 (Vict.), sec. 121.]

H. C. OF A.  
1913  
DICKASON  
v.  
DICKASON.

BARTON A.C.J. This application cannot be granted. The matter appears to be concluded by the judgments of the Lords in *Scott v. Scott* (1), the effect of which is that there is no inherent power in a Court of justice to exclude the public, inasmuch as one of the normal attributes of a Court is publicity, that is, the admission of the public to attend the proceedings. Power to exclude may be conferred expressly by law, but there is no law which empowers us to proceed otherwise than with the ordinary publicity of a Court of justice. On the contrary, secs. 15 and 16 of the *Judiciary Act* show clearly an intention on the part of the legislature that the jurisdiction of this Court should be publicly exercised.

ISAACS J. I agree.

GAVAN DUFFY J. I concur.

POWERS J. I concur.

RICH J. - I concur.

*Motion dismissed.*

The appeal subsequently, on 15th October, came on for hearing before Isaacs, Gavan Duffy and Powers JJ., and turned wholly on questions of fact.

Oct. 15.

*Morley*, for the appellant.

(1) 29 T.L.R., 520; (1913) A.C., 417.

(2) 2 N.S.W.L.R. (D.), 1.



H. C. OF A.  
1913.

DICKASON  
v.  
DICKASON.

W. W. Rogers, for the respondent, was not called on.

THE COURT dismissed the appeal.

*Appeal dismissed.*

Solicitors, for the appellant, *Hedderwick, Fookes & Alston.*

Solicitors, for the respondent, *Rogers & Rogers.*

B. L.

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[HIGH COURT OF AUSTRALIA.]

IN RE BYRNE.

ON APPEAL FROM THE SUPREME COURT OF  
VICTORIA.

H. C. OF A. *Barrister and solicitor--Admission to practise--Managing clerk--Supreme Court*  
1913. *Act 1912 (Vict.) (No. 2437), sec. 3.*

MELBOURNE,  
*May 15.*

Barton A.C.J.,  
Gavan Duffy  
and Rich JJ.

Sec. 3 of the *Supreme Court Act 1912* provides that "Notwithstanding anything contained in any Act of the Parliament of Victoria or any Rules made in pursuance of any such Act the Supreme Court consisting of three Judges of whom the Chief Justice shall be one may where under special circumstances it shall in its absolute discretion see fit so to do with reference to any person who shall within one year after the passing of this Act . . . satisfy the said Court that he has before the commencement of this Act served for ten years in Victoria as a managing clerk to some practising barrister and solicitor or barristers and solicitors and has been for such period of ten years *bonâ fide* engaged under his or their direction and supervision in the transaction and management of such matters of business as are usually transacted by barristers and solicitors order that such person shall upon passing" a certain examination "be entitled to admission to practise as a barrister and solicitor for the Supreme Court without entering into or serving under articles of clerkship," &c.

The Supreme Court having decided that a person who had the control and management of the costs department of the office of a barrister and solicitor was not a "managing clerk" within the meaning of that section,