

feel safe in advising the public, and it will create uncertainty and confusion. If it was necessary to decide in this case whether the decision in the *Musicians' Case* (1) should be reversed, I would under the circumstances mentioned follow the rule laid down by my brother *Isaacs* in this Court on more than one occasion (the latest, I think, on the 18th March this year), and by the Judges of the Courts of appeal in England, Australia and America in every case—namely, to follow the decisions given in their respective Courts until they are reviewed and reversed by as full a bench as is available, called for the purpose of considering the decision. In *Allen Taylor's Case* (2) *Isaacs J.* said:—"Whybrow's Case" (3) decided that the power of this Court to interpose by writ of prohibition where a Commonwealth Court is proceeding without jurisdiction is given direct by the Constitution as original jurisdiction of the High Court, and there being no authority to Parliament to annul that authority, any attempt to do so necessarily fails. By that decision this Court, unless constituted as a Full Bench, is bound, and so this case must be determined accordingly." That is a well recognized principle in all Courts of appeal. For that reason I do not see my way to consider, at present, whether common law agreements to settle disputes are against public policy, or any other question decided by the majority of the Court in that case; or to consider any other question that it is not necessary to decide to enable the Conciliation Court to continue its proceedings. The Conciliation Court can proceed with its work by a decision on the one point we all agree upon, without disturbing any previous decision of this Court. Urgent public need for the reversal of the decision was mentioned. I do not remember hearing of it during the argument. The Conciliation Court is doing a great work, and doing it well, and it is invaluable in cases where people cannot, or will not, settle disputes; but if disputes can be avoided or settled without reference to the Court at all, it must, I think, be a public benefit instead of a danger.

Motion dismissed with costs.

(1) 15 C.L.R., 636.

(2) 15 C.L.R., 586, at p. 606.

(3) 11 C.L.R., 1.

H. C. OF A.
1913.

AUSTRALIAN
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v.
FEDERATED
ENGINE-
DRIVERS AND
FIREMEN'S
ASSOCIATION
OF AUSTRAL-
ASIA.

Powers J.