

[HIGH COURT OF AUSTRALIA.]

THE WATERSIDE WORKERS' FEDERA- }
 TION OF AUSTRALIA } APPELLANTS;
 DEFENDANTS,

AND

BURKE RESPONDENT.
 PLAINTIFF,

ON APPEAL FROM THE SUPREME COURT OF
 TASMANIA.

H. C. OF A. *Principal and Agent—Organization registered under Commonwealth Conciliation
 1916. and Arbitration Act—Responsibility for acts of branch of organization—Con-
 ~~~~~ struction of rules—Act in nature of strike—Conspiracy—Combination.*

HOBART,  
 Feb. 14, 16.

Griffith C.J.,  
 Barton and  
 Isaacs J.

On facts identical with those in the last preceding case,

*Held*, that the organization was not liable for acts of a branch which constituted a conspiracy to prevent the plaintiff from exercising his calling.

Decision of the Supreme Court of Tasmania : *Burke v. Waterside Workers' Federation of Australia*, 11 Tas. L.R., 54, reversed.

APPEAL from the Supreme Court of Tasmania.

An action was brought in the Supreme Court in its Local Courts Act jurisdiction by James Burke, who carried on the business of a carter, against the Waterside Workers' Federation of Australia, Frederick Katz, Timothy Watson, John Daly and Frederick Noble, in which the plaintiff alleged a conspiracy to prevent him from carrying on his business. The action was heard before *Nicholls* C.J. and a jury, who gave a verdict for all the defendants. On application by the plaintiff a new trial was ordered by the Full Court on the ground that the verdict was

against the weight of the evidence: *Burke v. Waterside Workers' Federation of Australia* (1). H. C. OF A. 1916.

From that decision the Federation now, by special leave, appealed to the High Court.

WATERSIDE  
WORKERS'  
FEDERATION  
OF  
AUSTRALIA  
v.  
BURKE.

*H. I. Cohen*, for the appellants.

*Alec Thomson and Page*, for the respondent.

*Cur. adv. vult.*

GRIFFITH C.J. This is an appeal from an order granting a new trial after a verdict for the defendants. The action was brought against the appellants and four private persons for conspiracy to prevent the plaintiff from exercising his calling as a carter. The facts are identical with those in the case which we have just decided. The appellants contended, as in that case, that there was no evidence to show that the acts complained of were done with their authority. The facts being identical, the same result must follow. The appeal must, therefore, be allowed as far as the order appealed from affects the appellants.

Feb. 16.

BARTON J. I concur.

ISAACS J. I concur.

*Appeal allowed. Order appealed from discharged so far as it granted a new trial against the appellants, with costs of action and of motion to the Supreme Court. Respondent to pay the costs of the appeal.*

Solicitor for the appellants, *Charles Chant*.

Solicitors for the respondent, *Ewing, Hodgman & Seager*.

B. L.

(1) 11 Tas. L.R., 54.