

H. C. OF A. 1919. that it should be given a construction narrower than its primary interpretation would suggest.

BANKSTOWN MUNICIPAL COUNCIL For the reasons above stated, we think that the rate cannot be held invalid, and that the appeal must be allowed.

v.  
FRIPP.

*Appeal allowed. Judgment appealed from discharged and judgment entered for plaintiff with costs. Respondent to pay costs of appeal.*

Solicitors for the appellant, *Boyce & Magney.*

Solicitors for the respondent, *Pigott & Stinson.*

B. L.

[HIGH COURT OF AUSTRALIA.]

THE KING

AGAINST

THE COMMONWEALTH COURT OF CONCILIATION AND  
ARBITRATION AND THE AUSTRALIAN JOURNALISTS'  
ASSOCIATION.

H. C. OF A.  
1918-1919.

EX PARTE THE DAILY NEWS PROPRIETARY LIMITED.

MELBOURNE, Sept. 3-5, 1918. *Industrial Arbitration—Award—Commonwealth Court of Conciliation and Arbitration—Deputy President—Prohibition—The Constitution (62 & 64 Vict. c. 12), sec. 51 (XXXV.)—Commonwealth Conciliation and Arbitration Act 1904-1915 (No. 13 of 1904—No. 35 of 1915).*

Barton, Isaacs,  
Gavan Duffy,  
Powers and  
Rich JJ.

Orders *nisi* for prohibition in respect of an award were discharged by the High Court.

ORDERS *nisi* for prohibition.

A plaint in the Commonwealth Court of Conciliation and Arbitration, in which the Australian Journalists' Association was claimant and the Sydney Daily Newspapers Employers' Association and a number of proprietors of newspapers throughout the Commonwealth were respondents, was heard by *Isaacs J.*, who had been appointed Deputy President of that Court pursuant to the *Commonwealth Conciliation and Arbitration Act*. At the conclusion of the evidence, and after delivering a judgment which contained minutes of a proposed award, and after those minutes had been discussed, the Deputy President signed a document which purported to be his award. Apart from that document no formal award of the Court was ever drawn up.

The Daily News Proprietary Ltd. (the proprietor of the *Daily News*, Perth, Western Australia), one of the respondents to the plaint, obtained two orders *nisi* for prohibition directed to the Commonwealth Court of Conciliation and Arbitration and the President thereof, and Mr. Justice *Isaacs* as Deputy President thereof, and the claimant, in respect of part of the award—the first on the ground that the award was not made in respect of an industrial dispute within the meaning of the *Commonwealth Conciliation and Arbitration Act* 1904-1915 and of sec. 51 (xxxv.) of the Constitution; and the other on the grounds (1) that there was no award of the Commonwealth Court of Conciliation and Arbitration in existence within the meaning of that Act, and (2) that the Deputy President had no power to make a compulsory award of the Commonwealth Court of Conciliation and Arbitration within the meaning of that Act.

The orders *nisi* were first argued on 3rd, 4th and 5th September 1918 before *Griffith C.J.* and *Barton, Isaacs, Gavan Duffy, Powers* and *Rich JJ.* The Court reserved judgment, and subsequently intimated that they desired to hear further argument on the question whether prohibition would lie. The further argument was heard before *Barton, Isaacs, Gavan Duffy, Powers* and *Rich JJ.* on 19th and 20th May 1919. As no reasons for judgment were given, the arguments are not reported.

H. C. OF A.  
1918-1919.

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R.  
v.  
COMMON-  
WEALTH  
COURT OF  
CONCILIA-  
TION AND  
ARBITRA-  
TION.

EX PARTE  
DAILY NEWS  
PRO-  
PRIETARY  
LTD.  
—

H. C. OF A.  
1918-1919.

*Sir Edward Mitchell* K.C. (with him *Macindoe*), for the prosecutor.

R.  
v.

*Owen Dixon* (with him *R. G. Menzies*), for the respondent organization.

COMMON-  
WEALTH  
COURT OF  
CONCILI-  
ATION AND  
ARBITRA-  
TION.

*Starke* and *Mann*, for the Commonwealth, intervening.

*Cur. adv. vult.*

EX PARTE  
DAILY NEWS  
PRO-  
PRIETARY  
LTD.  
June 11.

PER CURIAM. These orders *nisi* will be discharged. There will be no order as to costs. The Court does not think fit to make any further observations.

*Orders nisi discharged.*

Solicitors for the prosecutor, *Lynch & MacDonald*.

Solicitors for the respondent organization, *Brennan & Rundle*.

Solicitor for the Commonwealth, *Gordon H. Castle*, Crown Solicitor for the Commonwealth.

B. L.