

[HIGH COURT OF AUSTRALIA.]

THE FEDERATED ENGINE-DRIVERS }
 AND FIREMEN'S ASSOCIATION OF } APPELLANTS;
 AUSTRALASIA }
 INFORMANTS,

AND

THE COLONIAL SUGAR REFINING }
 COMPANY LIMITED } RESPONDENTS.
 DEFENDANTS,

ON APPEAL FROM A COURT OF PETTY SESSIONS OF VICTORIA.

H. C. OF A. *Employer and Employee—Minimum wages—Industrial Arbitration—Award—*
 1916. *Interpretation—"Crane engine-driver."*

MELBOURNE,
March 23.

By an award of the Commonwealth Court of Conciliation and Arbitration a minimum rate of wages was fixed for, amongst other classes of engine-drivers, "crane engine-drivers."

Griffith C.J.,
 Barton,
 Isaacs and
 Rich JJ.

Held, that that term denotes a person in charge of an engine by which a crane is operated, and includes a person who is in charge of an electric motor supplied with electricity from an outside source together with a crane operated by that motor.

APPEAL from a Court of Petty Sessions of Victoria.

At the Court of Petty Sessions at Melbourne an information was heard whereby the Federated Engine-Drivers and Firemen's Association of Australasia, an organization registered under the *Commonwealth Conciliation and Arbitration Act 1904-1914*, charged that between 29th August 1914 and 25th October 1915 the Colonial Sugar Refining Co. Ltd., after due demand, refused and neglected to pay to one James Dickson, one of their employees and a member of the organization, the wages fixed by

an award of the Commonwealth Court of Conciliation and Arbitration dated 20th November 1913, and thereby wilfully made default in compliance with such award. By that award the minimum rate of wages payable by the defendants to a "crane engine-driver," if the crane exceeded five tons, was 10s. 6d. per day. The award also fixed minimum rates of wages for "locomotive-drivers," "winding engine-drivers," "traction engine-drivers (steam or oil)," "winch-drivers," and "other engine-drivers." It was further provided by the award that its provisions should apply, "except where the contrary intention appears, to persons engaged in the several occupations referred to, whether the motive-power be steam, electricity, coal gas, suction gas, pressure gas, air, oil, or any other motive-power, other than hand-power or animal-power."

The crane in question was operated by an electric motor to which electricity was supplied from an outside source. The man Dickson, who was under twenty years of age, had charge of the crane. His work consisted of controlling the supply of electricity to the motor, and operating the crane by means of the motor.

The Court having dismissed the information, holding that Dickson was not a "crane engine-driver," the informants now appealed to the High Court by way of order to review.

The other material facts are stated in the judgment of the Chief Justice hereunder.

Schutt, for the appellants. On a fair interpretation of the award, and looking at the work performed by Dickson, he was a "crane engine-driver."

Starke, for the respondents. The question whether Dickson was a "crane engine-driver" does not depend on the nature of his work, but depends on the nomenclature of the craft in which he was employed. It is immaterial whether he would come under any other class of employees mentioned in the award, because there may have been no claim made in respect of that class. The term "crane engine-driver" means a man who controls the production of the motive-power and regulates its supply. There must be an "engine," and there is none in this case. Dickson was merely a motor attendant.

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Griffith C.J. The question to be determined in this case is short and simple. An award of the President of the Commonwealth Court of Conciliation and Arbitration awarded to a "crane engine-driver," if the crane exceeded five tons, a minimum wage, in the present case, of 10s. 6d. per day. The man Dickson, in respect of whom the complaint was made, was in charge of an electric motor by which a crane was operated. It happens from the nature of such motors that the supply, degree, and cessation of power are regulated by pressing a button. In the case of a crane operated by steam, the supply, degree, and cessation of power are regulated by a lever which operates upon a valve, and similarly in the case of a crane operated by gas. But the difference in the difficulty or simplicity of the operation performed does not seem to me to make any essential difference in its character. The care required from the person who performs the operation is equally great in each case. As a matter of construction I think that, even if the term "crane engine-driver" is not generally known in the trade, it sufficiently denotes a person in charge of an engine by which a crane is operated.

I therefore come to a different conclusion from that of the Magistrate, and think that the appeal should be allowed.

BARTON J. I agree.

ISAACS J. I agree.

RICH J. I agree.

*Appeal allowed. Defendants fined 10s.,
and to pay £5 5s. for costs below.
Respondents to pay costs of appeal.*

Solicitor for the appellants, *H. H. Hoare.*

Solicitors for the respondents, *Derham, Robertson & Derham.*

B. L.