

HIGH COURT OF AUSTRALIA

HAYNE J

PATRICK STEVEDORES OPERATIONS
NO 2 PTY LTD & ORS

APPLICANTS

AND

MARITIME UNION OF AUSTRALIA & ORS

RESPONDENTS

Patrick Stevedores Operations No 2 Pty Ltd v Maritime Union of Australia
[1998] HCA 31

Date of Order: 23 April 1998

Date of Publication of Reasons: 6 May 1998

ORDER

Upon the undertaking of the first to thirteenth appellants in the schedule of parties in the judgment of the Full Court of the Federal Court of Australia, to pay to the Maritime Union of Australia, Peter Breukers, Jake Haub, Kieran Coyle, and the individuals referred to in paragraph 1 of the statement of claim in action VG 152 of 1998 in the Federal Court of Australia whom Kieran Coyle represents, to Patrick Stevedores No 1 Pty Ltd, Patrick Stevedores No 2 Pty Ltd, Patrick Stevedores No 3 Pty Ltd and National Stevedoring Tasmania Pty Ltd, adversely affected by the stay granted by this Court, such compensation if any as the Court thinks just in such manner as the Court directs;

- 1. Paragraphs 1, 2 and 4 of the orders of North J, made on 21 April 1998 as modified by the Full Court of the Federal Court of Australia on 23 April 1998, be stayed until the hearing and determination of the proposed application for stay by the applicants.*
- 2. Costs reserved.*
- 3. Certify for the attendance of counsel.*

Representation:

R V Gyles QC with J E Middleton and M P McDonald for the applicants (instructed by Freehill Hollingdale & Page)

J W K Burnside QC with H Borenstein, M Bromberg and M G R Gronow for the first and second respondents (instructed by Maurice Blackburn & Co)

P B Murdoch QC with J D Elliott for the third to sixth respondents (instructed by Phillips Fox)

G P Harris for the seventh and ninth respondents (instructed by Blake Dawson Waldron)

No appearance for the eighth and tenth respondents

J I Fajgenbaum QC with P M Tate for the eleventh, twelfth, thirteenth, fourteenth, fifteenth and sixteenth respondents (instructed by Minter Ellison)

G T Pagone QC with D Chan and W A Harris for the seventeenth and eighteenth respondents (instructed by Dunhill Madden Butler)

Notice: This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication in the Commonwealth Law Reports.

CATCHWORDS

Patrick Stevedores No 2 Pty Ltd & Ors v Maritime Union of Australia & Ors

Procedure – Stay – Stay of injunction – Preservation of the authority of the court.

Tait v The Queen (1962) 108 CLR 620.

1 HAYNE J. Maintenance of the rule of law in this society requires that parties may resort to the courts to determine their disputes. The applicants seek to resort to this Court and to contend that unless a stay is granted of the orders of North J, as modified by the orders of the Full Court of the Federal Court of Australia made this evening, their right to apply to this Court for special leave to appeal will be rendered futile.

2 To adopt and adapt the words of Dixon CJ in *Tait v The Queen*¹, without giving consideration to, or expressing any opinion as to the grounds on which the proposed application is based, but entirely so that the authority of this Court may be maintained and it may have an opportunity of considering the application, there will be a stay now of the orders I have earlier mentioned, if the applicants proffer an undertaking as to damages in common form and give suitable undertakings as to issue and service of both an application for special leave to appeal and an application for stay pending its hearing. The stay now ordered will be until the hearing and determination of the proposed application for stay or further order.

1 (1962) 108 CLR 620 at 624.