

5/1922

PICKARD V. BUZACOTT AND CO LTD.

JUDGMENT

ERROX C.J. GAVAN DUFFY & J. & STARKE J.

The defendant (the respondent to this appeal) was charged on two informations, one that it committed a lock-out, and the other that it continued to lock out contrary to the provisions of the Commonwealth Conciliation and Arbitration Act 1904 - 1920 S. 6 A. The complainant (the appellant) led evidence on the hearing of these informations for the purpose of shewing that the defendant closed its place of business, or part of its place, of employment, or, that employers acting in combination refused unreasonably to give work, or, that the defendant totally or partly suspended work with a view to compel its employees to accept a term or condition of employment in the way of lesser wages and longer hours of work.

On the other hand, the defendant led evidence for the purpose of shewing that the closing of its place of business and its refusal to give and suspension of work, were in truth due to its aim to reduce the costs of production and save ~~save~~ its business from the ruin which threatened it, if it were to have continued manufacturing on the conditions as to wages and hours prescribed by an award of the Commonwealth Court of Conciliation and Arbitration.

The Magistrate who heard the informations accepted the evidence of the defendant, and we are not in as good a position as he was to determine the credibility of the witness for the defence. Therefore we must accept <sup>to his</sup> ~~that~~ <sup>of the latter</sup> evidence, and upon that evidence there ought not to be a conviction.

Consequently the appeal is dismissed with costs.

Note. In the absence of the original reasons for judgment in the above case the reasons stated above are considered by His Honour the Chief Justice to be the same as those delivered on 24th April, 1922.

*Richard Dowse*

22:11:23

Associate to the Chief Justice,