

INGLIS

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v.

COMMONWEALTH TRADING BANK

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## REASONS FOR JUDGMENT

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Judgment delivered at MELBOURNE  
on FRIDAY, 11TH OCTOBER, 1968.

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JUDGMENT

MENZIES J.

HIS HONOUR: The plaintiffs have sued a defendant described as "The Commonwealth Trading Bank of Australia, of Hobart, a person being sued on behalf of the Commonwealth". It appears that the jurisdiction it is sought to rely upon to support such a proceeding is section 75 (iii) of the Constitution, which gives this court jurisdiction in matters in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party.

To support what has been done Mrs. Inglis has advanced two arguments, first that the Commonwealth Trading Bank of Australia is itself the Commonwealth. It is to be observed that that is not the way in which the writ is framed, but that matters little because I propose to deal with the substance of the matter.

In my opinion the Commonwealth Trading Bank of Australia is not the Commonwealth of Australia; it is a statutory corporation separate from the Commonwealth itself and the part of Section 75(iii) which gives this Court jurisdiction in actions in which the Commonwealth is a party can have no relation to this particular action.

Then it is alleged that at any rate the Commonwealth Trading Bank of Australia is the agent of the Commonwealth and wide significance is attached to this because, as I follow Mrs. Inglis' argument, it is that everything that the Commonwealth Trading Bank does it does as an agent of the Commonwealth because that is the character of the corporation. In my opinion, that submission, which depends upon a proper construction of

because the words "a person being sued on behalf of the Commonwealth" are used. I must, however, go to the substance of the matter and, there being nothing to show that the Commonwealth Trading Bank of Australia is a person being sued on behalf of the Commonwealth, I consider that this writ was issued without jurisdiction.

I set aside the writ and order the plaintiffs to pay the costs of the Commonwealth in relation to the action and these proceedings.

Do you need a certificate here, Mr. Shaw?

MR. SHAW: I think so, Your Honour.

HIS HONOUR: I certify.

AT 10.02 A.M. THE COURT ADJOURNED SINE DIE  
15th October, 1968.