HIGH COURT OF AUSTRALIA

James

Vs.

Cowan

(Starke J.)

07.11.1929

JUDGMENT

STARKE, J:-

This is an action against the defendants for seizing the dried fruits of the plaintiff. The seizure was admitted, and justified under secs. 28 and 29 of the *Dried Fruits Act 1924 of South Australia*. Sec. 28 provides that subject to sec. 92 of the *Constitution*, and for the purposes of the *Dried Fruits Act* or any contract made by the Dried Fruits Board constituted under the Act, the Minister of Agriculture may, on behalf of His Majesty, purchase by agreement or acquire compulsorily any dried fruits in South Australia grown and dried in South Australia, with certain exceptions immaterial to this case. Under sec. 29 the Minister may by order declare that dried fruits compulsorily acquired are acquired by His Majesty, and upon the service of the order all dried fruits described in the order cease to be the property of the then owner or owners, and become the absolute property of His Majesty, freed from any mortgage or other encumbrance thereon whatsoever, and the title and property of such owner or owners is changed into a right to receive payment of the value thereof at the export price thereof. Provision is made for seizing and taking possession of dried fruits so acquired. All the formal steps required by these sections for the compulsory acquisition of the plaintiff's dried fruit appear to have been taken, and the questions that emerge for consideration are whether the acquisitions were for the purposes of the Act, and, if so, whether the acquisitions and seizures in any way contravened the provisions of sec. 92 of the *Constitution*.

As was said in *Municipal Council of Sydney v. Campbell*[1] , "a body ... authorized to take land compulsorily for specified purposes, will not be permitted to exercise its powers for different purposes," and "whether it does so or not is a question of fact." There is no difference in principle whether the subject of acquisition be land, or dried fruits, or other goods. So the primary question is: What are the purposes of the *Dried Fruits Act* for which compulsory acquisition is allowed? To some extent the purposes of the Act were indicated in *James v. State of South Australia*[2] , but ultimately we must turn to the words of the Act itself. The consumption of dried fruits in Australia is not, it seems, sufficiently large to absorb the whole of the output in Australia, and, to maintain and preserve the industry of dried fruit production, it was considered necessary to regulate and control the marketing of such fruit. The Commonwealth and the fruit-growing States therefore passed legislation to carry out this object. A greater demand might be created for dried fruits in Australia, or the surplus output might be forced off the Australian market and its export overseas compelled. Several methods were authorized by the South Australian Act to achieve these ends. Thus, under sec. 19, the Board might purchase and sell all dried fruits, encourage the consumption of dried fruits, and fix maximum prices to be charged on the sale of dried fruits, whether wholesale

or retail. Under sec. 20, the Board might determine where and in what proportions the output of dried fruits produced in any particular year was to be marketed. Doubts were entertained as to the constitutional validity of this method, and finally the section was held invalid in *James v. State of South Australia* by reason of the provisions of sec. 92 of the *Constitution*. Under secs. 28 and 29, a third method was authorized—suggested, no doubt, by the *Wheat Case*[3] —namely, acquisition, by agreement or compulsorily. By this last method, the Government could obtain complete control of the dried fruit so acquired, and market it when, where, and in such quantities as it thought expedient. This was the method adopted in the present case. But I see nothing in the method contrary to the purposes of the Act: rather does it embody the very end that the Act by its provisions contemplated and intended. In the reply to the defence, various allegations are made concerning the object and intention of the acquisitions. Thus, it is alleged that the Minister and the Board knew or believed that the determinations of the Board as to the disposal of the dried fruits crop was invalid, and yet acquired the plaintiff's fruit with the object of giving effect to those invalid determinations. But the truth is, I think, that the Minister and the Board were doubtful of both the validity and the practical efficacy of the determinations, and resolved to regulate and control the marketing of dried fruits, and particularly the plaintiff's dried fruits, by another method sanctioned by the Act, namely, compulsory acquisition. They did not do it with the object or intention of bolstering up invalid determinations, or of punishing the plaintiff, or of benefiting particularly the members of the Australian Dried Fruits Association, or of obstructing, interfering with or preventing the plaintiff carrying on his business, whether domestic or inter-State, or of deterring or intimidating the plaintiff and others, or of obtaining the approval and support of the members of the Australian Dried Fruits Association, or with any like intent. As the consumption of dried fruits in Australia was not sufficient to absorb the output, the Government of the Commonwealth, the fruit-growing States, the Minister and the Board were convinced that the surplus would glut the Australian market and cause a fall in prices, which, it was supposed, would be detrimental to the progress and stability of the dried fruits industry, however beneficial it might be to the consumers of dried fruits. So, in pursuance of the scheme in which the Commonwealth and the fruit-growing States had joined, the Minister and the Board resolved to use the powers apparently conferred upon them by legislation to prevent the evils feared, and to force the surplus fruit off the Australian market. And, if a grower would not fall in voluntarily with the scheme, then he must be compelled to do so, and the marketing and sale of his fruit regulated and controlled by some method allowed by the Act.

I pass now to the next question, namely, whether the compulsory acquisition of dried fruits for the purpose of regulating, controlling and marketing contravenes the provisions of sec. 92 of the *Constitution*. The introductory words to sec. 28 of the *Dried Fruits Act* expressly provide that the power of acquisition shall not be exercised so as to violate the provisions of sec. 92. But, independently of those introductory words, the provisions of sec. 92 itself inhibit the States from legislating so as to interfere with the freedom thereby prescribed. By force of those provisions the States cannot by legislation prohibit an owner from engaging his goods in inter-State trade and commerce. Nor can the States do indirectly what they cannot do directly. But in the *Wheat Case*[4] this Court unanimously held that an Act enabling the Governor of the State of New South Wales, by notification in the *Gazette*, to declare that any wheat therein described or referred to was acquired by His Majesty and that upon such publication the wheat should become the absolute property of His Majesty and the rights and interests of every person in the wheat at the date of the publication should be converted into a claim for compensation did not violate the provision of sec. 92 of the *Constitution* that trade, commerce and intercourse among the States should be absolutely free. And this was held to be so, even though some of the wheat involved in the particular case was the subject of inter-State movement and trade (see p. 56). *Griffith*[5] :—"The title to property is governed by

State law, and, in general, the right of the owner to dispose of his property is also governed by State law. The right to control such disposition is limited by sec. 92 of the *Constitution*. But that section has nothing to say to the question of title. The duration of the power of disposition, which depends upon title, is coextensive with the duration of the title itself, and ceases with it. There cannot therefore be any conflict between the law of title and the law of disposition, and a law which deprives a man of the ownership of property does not interfere with his power of disposition while owner. Sec. 92 may, therefore, so far as it relates to commerce, be paraphrased thus: Every owner of goods shall be at liberty to make such contracts for the transportation of goods from one State to another as he thinks fit without interference by law. It follows that as soon as he ceases to be the owner of the goods the section ceases to have any operation so far as those goods are concerned." *Barton* J. and *Powers* J. were of the same opinion. (See also *W. A. McArthur v. State of Queensland*[6] .) *Gavan Duffy* J. and *Rich* J. in the *Wheat Case*[7] took the view that no enactment of a State Parliament offends against sec. 92 unless it expressly forbids or restrains inter-State trade and commerce, or, as *Gavan Duffy* J. put it in *McArthur's Case*, unless the restriction or restraint is conditioned on the fact that such trade or commerce is carried on between the States. *Isaacs* J. in the *Wheat Case*[8] :—"When a State deals with property on the basis of property and regulates its ownership irrespective of any element of inter-State trade, there is no abridgment of absolute freedom of trade." If a State "proceeds to exercise its own lawful powers of legislation without reference in any way to and perfectly independently and irrespective of such inter-State operations, it is not an unlawful exercise of legislative power." Later, in *James v. State of South Australia*[9] , *Isaacs* J. explained that in the *Wheat Case* the expropriation of wheat by the Government was held to be good because it appeared that it was made without reference to inter-State trade or inter-State contracts as a criterion or as influencing the operation of expropriation, and without discrimination. *Powers* J. concurred in this explanation. I think this approaches the view of *Gavan Duffy* J., but it appears to me, with all respect, to be in opposition to the reasons given by *Griffith* C.J. and by *Barton, Isaacs* and *Powers* JJ. in the *Wheat Case*, and also with the decision in *McArthur's Case*. In the *Wheat Case* the acquisition of the wheat necessarily restricted or interfered with the owner's ability to engage it in inter-State trade (see p. 56)), but according to the decision in that case the deprivation of the owner of his property in no wise infringed the provisions of sec. 92. And the Court, it should be remembered, was dealing, in the *Wheat Case*[10] , not only with the particular acquisitions therein alleged, but also with the potential operation of the Act, that is, with acquisitions which might be made under its authority, e.g., acquisitions which contemplated and necessarily restricted the inter-State movement of wheat. Unless, therefore, the purpose of the *Dried Fruits Act*, namely, the regulation and control of the marketing of dried fruits, makes some vital distinction, the *Wheat Case* rules this case, whether the view taken by the majority of the Court of the operation of sec. 92 or that taken by my brothers *Gavan Duffy* and *Rich* be accepted as correct. The State regulated and changed the ownership of the plaintiff's dried fruits, and did not condition that regulation and change on the fact of inter-State trade or commerce: the ownership was changed for a purpose of the Act, namely, the purpose of controlling the marketing of dried fruits, so that the dried fruits industry might be maintained and preserved. The wisdom of this policy and its effect economically upon the Australian consumers are matters for the Legislature, and have no bearing upon any question which falls for decision by this Court. However, I see no distinction in principle between an acquisition by a legislative authority to maintain the Empire in time of war or to feed the people of a State, and an acquisition to maintain the industries of a State. In the *Wheat Case*, certainly, the power of acquisition was general, whereas in the present case it is confined to the purposes of the Act; but in both cases the supply, the price and the marketing of the commodity are necessarily controlled and regulated. It appears to me, therefore, on the authority of the *Wheat Case*, that the acquisitions and seizures of the plaintiff's dried fruits were duly and lawfully made, under

the provisions of the *Dried Fruits Act of South Australia*, and that this action must consequently be dismissed.

As this case will probably go further, it is perhaps desirable that I should assess the damages in case it is ultimately established that the plaintiff's right has been infringed. I do so on the basis that the whole of the acquisitions and seizures of the plaintiff's fruit are held to be unlawful. The heads under which damages are claimed are as follows:—(1) Loss of realizable value of fruit seized, £23,353 11s. 5d. The plaintiff, as I understood his counsel, admitted a deduction from the amount claimed of the sum paid under the acquisitions and an adjustment of charges to f.o.b. Port Adelaide, amounting to £15,568 6s. 7d. The defendants did not seriously contest the position that the plaintiff could have sold his fruit for £23,353 11s. 5d. if his actions had been uncontrolled. Consequently, I should award the difference, £7,785 4s. 10d. (2) Extra storage, extra wages, sundry expenses, loss of business and damage to goodwill. There was a good deal of disturbance to the plaintiff's business by the acquisition and seizures. His premises were used for storage purposes, his business methods and processes were slowed down and rendered more costly. He was put to expense in communicating with his customers and others, and he also lost custom, both among suppliers and purchasers, owing to the action of the defendants. But in connection with the loss of business it must be remembered that after the *Federal Dried Fruits Act* No. 11 of 1928 the plaintiff could only carry on business with a licence of the Federal authority. Further, the capital cost of erecting storage sheds should not be allowed. On the whole, I should award a lump sum of £1,000 for the various losses claimed under the items covered by this second head. (3) Carriers, nil. Expenses under this head were incurred by the plaintiff in anticipation of seizures by the defendants and to put his dried fruits beyond their reach. (4) Liability to purchasers and commission to brokers, £3,360. I see no reason to distrust the plaintiff's evidence as to the items under this head. I should, therefore, award the plaintiff a total sum of £12,145 4s. 10d. damages if it were held that the whole of the seizures of his dried fruits were wrongful and unauthorized. But, as in my opinion the acquisitions and seizures of the plaintiff's dried fruits were authorized by law, the action must be dismissed with costs, except the costs of and occasioned by the adjournment on 20th June 1929, which was due to the unreasonable conduct of the defendants.

From this decision the plaintiff now appealed to the Full Court of the High Court.

Appeal dismissed.

Solicitors for the appellant, Edmunds, Jessop & Ward.

Solicitor for the respondents, A. J. Hannan, Crown Solicitor for South Australia.

H C of A

On appeal from the High Court (Starke J.).

21 March 1930

Knox C.J., Isaacs, Gavan Duffy and Rich JJ.

Cleland K.C. and K. L. Ward, for the plaintiff.

Villeneuve Smith K.C., Robert Menzies K.C. and Hannan, for the defendants.

Nov. 7, 1929

Starke J

. delivered the following written judgment:—

This is an action against the defendants for seizing the dried fruits of the plaintiff. The seizure was admitted, and justified under secs. 28 and 29 of the *Dried Fruits Act 1924 of South Australia*. Sec. 28 provides that subject to sec. 92 of the *Constitution*, and for the purposes of the *Dried Fruits Act* or any contract made by the Dried Fruits Board constituted under the Act, the Minister of Agriculture may, on behalf of His Majesty, purchase by agreement or acquire compulsorily any dried fruits in South Australia grown and dried in South Australia, with certain exceptions immaterial to this case. Under sec. 29 the Minister may by order declare that dried fruits compulsorily acquired are acquired by His Majesty, and upon the service of the order all dried fruits described in the order cease to be the property of the then owner or owners, and become the absolute property of His Majesty, freed from any mortgage or other encumbrance thereon whatsoever, and the title and property of such owner or owners is changed into a right to receive payment of the value thereof at the export price thereof. Provision is made for seizing and taking possession of dried fruits so acquired. All the formal steps required by these sections for the compulsory acquisition of the plaintiff's dried fruit appear to have been taken, and the questions that emerge for consideration are whether the acquisitions were for the purposes of the Act, and, if so, whether the acquisitions and seizures in any way contravened the provisions of sec. 92 of the *Constitution*.

As was said in *Municipal Council of Sydney v. Campbell*[11] , "a body ... authorized to take land compulsorily for specified purposes, will not be permitted to exercise its powers for different purposes," and "whether it does so or not is a question of fact." There is no difference in principle whether the subject of acquisition be land, or dried fruits, or other goods. So the primary question is: What are the purposes of the *Dried Fruits Act* for which compulsory acquisition is allowed? To some extent the purposes of the Act were indicated in *James v. State of South Australia*[12] , but ultimately we must turn to the words of the Act itself. The consumption of dried fruits in Australia is not, it seems, sufficiently large to absorb the whole of the output in Australia, and, to maintain and preserve the industry of dried fruit production, it was considered necessary to regulate and control the marketing of such fruit. The Commonwealth and the fruit-growing States therefore passed legislation to carry out this object. A greater demand might be created for dried fruits in Australia, or the surplus output might be forced off the Australian market and its export overseas compelled. Several methods were authorized by the South Australian Act to achieve these ends. Thus, under sec. 19, the Board might purchase and sell all dried fruits, encourage the consumption of dried fruits, and fix maximum prices to be charged on the sale of dried fruits, whether wholesale or retail. Under sec. 20, the Board might determine where and in what proportions the output of dried fruits produced in any particular year was to be marketed. Doubts were entertained as to the constitutional validity of this method, and finally the section was held invalid in *James v. State of South Australia* by reason of the provisions of sec. 92 of the *Constitution*. Under secs. 28 and 29, a third method was authorized—suggested, no doubt, by the *Wheat Case*[13] —namely, acquisition, by agreement or compulsorily. By this last method, the Government could obtain complete control of the dried fruit so acquired, and market it when, where, and in such quantities as it thought expedient. This was the method adopted in the present case. But I see nothing in the method contrary to the purposes of the Act: rather does it embody the very end that the Act by its provisions contemplated and intended. In the reply to the defence, various allegations are made concerning the

object and intention of the acquisitions. Thus, it is alleged that the Minister and the Board knew or believed that the determinations of the Board as to the disposal of the dried fruits crop was invalid, and yet acquired the plaintiff's fruit with the object of giving effect to those invalid determinations. But the truth is, I think, that the Minister and the Board were doubtful of both the validity and the practical efficacy of the determinations, and resolved to regulate and control the marketing of dried fruits, and particularly the plaintiff's dried fruits, by another method sanctioned by the Act, namely, compulsory acquisition. They did not do it with the object or intention of bolstering up invalid determinations, or of punishing the plaintiff, or of benefiting particularly the members of the Australian Dried Fruits Association, or of obstructing, interfering with or preventing the plaintiff carrying on his business, whether domestic or inter-State, or of deterring or intimidating the plaintiff and others, or of obtaining the approval and support of the members of the Australian Dried Fruits Association, or with any like intent. As the consumption of dried fruits in Australia was not sufficient to absorb the output, the Government of the Commonwealth, the fruit-growing States, the Minister and the Board were convinced that the surplus would glut the Australian market and cause a fall in prices, which, it was supposed, would be detrimental to the progress and stability of the dried fruits industry, however beneficial it might be to the consumers of dried fruits. So, in pursuance of the scheme in which the Commonwealth and the fruit-growing States had joined, the Minister and the Board resolved to use the powers apparently conferred upon them by legislation to prevent the evils feared, and to force the surplus fruit off the Australian market. And, if a grower would not fall in voluntarily with the scheme, then he must be compelled to do so, and the marketing and sale of his fruit regulated and controlled by some method allowed by the Act.

I pass now to the next question, namely, whether the compulsory acquisition of dried fruits for the purpose of regulating, controlling and marketing contravenes the provisions of sec. 92 of the *Constitution*. The introductory words to sec. 28 of the *Dried Fruits Act* expressly provide that the power of acquisition shall not be exercised so as to violate the provisions of sec. 92. But, independently of those introductory words, the provisions of sec. 92 itself inhibit the States from legislating so as to interfere with the freedom thereby prescribed. By force of those provisions the States cannot by legislation prohibit an owner from engaging his goods in inter-State trade and commerce. Nor can the States do indirectly what they cannot do directly. But in the *Wheat Case*[14] this Court unanimously held that an Act enabling the Governor of the State of New South Wales, by notification in the *Gazette*, to declare that any wheat therein described or referred to was acquired by His Majesty and that upon such publication the wheat should become the absolute property of His Majesty and the rights and interests of every person in the wheat at the date of the publication should be converted into a claim for compensation did not violate the provision of sec. 92 of the *Constitution* that trade, commerce and intercourse among the States should be absolutely free. And this was held to be so, even though some of the wheat involved in the particular case was the subject of inter-State movement and trade (see p. 56). *Griffith*[15] :—"The title to property is governed by State law, and, in general, the right of the owner to dispose of his property is also governed by State law. The right to control such disposition is limited by sec. 92 of the *Constitution*. But that section has nothing to say to the question of title. The duration of the power of disposition, which depends upon title, is coextensive with the duration of the title itself, and ceases with it. There cannot therefore be any conflict between the law of title and the law of disposition, and a law which deprives a man of the ownership of property does not interfere with his power of disposition while owner. Sec. 92 may, therefore, so far as it relates to commerce, be paraphrased thus: Every owner of goods shall be at liberty to make such contracts for the transportation of goods from one State to another as he thinks fit without interference by law. It follows that as soon as he ceases to be the owner of the goods the section ceases to have any operation so far as those goods are concerned."

Barton J. and *Powers* J. were of the same opinion. (See also *W. A. McArthur v. State of Queensland*[16] .) *Gavan Duffy* J. and *Rich* J. in the *Wheat Case*[17] took the view that no enactment of a State Parliament offends against sec. 92 unless it expressly forbids or restrains inter-State trade and commerce, or, as *Gavan Duffy* J. put it in *McArthur's Case*, unless the restriction or restraint is conditioned on the fact that such trade or commerce is carried on between the States. *Isaacs* J. in the *Wheat Case*[18] :—"When a State deals with property on the basis of property and regulates its ownership irrespective of any element of inter-State trade, there is no abridgment of absolute freedom of trade." If a State "proceeds to exercise its own lawful powers of legislation without reference in any way to and perfectly independently and irrespective of such inter-State operations, it is not an unlawful exercise of legislative power." Later, in *James v. State of South Australia*[19] , *Isaacs* J. explained that in the *Wheat Case* the expropriation of wheat by the Government was held to be good because it appeared that it was made without reference to inter-State trade or inter-State contracts as a criterion or as influencing the operation of expropriation, and without discrimination. *Powers* J. concurred in this explanation. I think this approaches the view of *Gavan Duffy* J., but it appears to me, with all respect, to be in opposition to the reasons given by *Griffith* C.J. and by *Barton, Isaacs* and *Powers* JJ. in the *Wheat Case*, and also with the decision in *McArthur's Case*. In the *Wheat Case* the acquisition of the wheat necessarily restricted or interfered with the owner's ability to engage it in inter-State trade (see p. 56)), but according to the decision in that case the deprivation of the owner of his property in no wise infringed the provisions of sec. 92. And the Court, it should be remembered, was dealing, in the *Wheat Case*[20] , not only with the particular acquisitions therein alleged, but also with the potential operation of the Act, that is, with acquisitions which might be made under its authority, e.g., acquisitions which contemplated and necessarily restricted the inter-State movement of wheat. Unless, therefore, the purpose of the *Dried Fruits Act*, namely, the regulation and control of the marketing of dried fruits, makes some vital distinction, the *Wheat Case* rules this case, whether the view taken by the majority of the Court of the operation of sec. 92 or that taken by my brothers *Gavan Duffy* and *Rich* be accepted as correct. The State regulated and changed the ownership of the plaintiff's dried fruits, and did not condition that regulation and change on the fact of inter-State trade or commerce: the ownership was changed for a purpose of the Act, namely, the purpose of controlling the marketing of dried fruits, so that the dried fruits industry might be maintained and preserved. The wisdom of this policy and its effect economically upon the Australian consumers are matters for the Legislature, and have no bearing upon any question which falls for decision by this Court. However, I see no distinction in principle between an acquisition by a legislative authority to maintain the Empire in time of war or to feed the people of a State, and an acquisition to maintain the industries of a State. In the *Wheat Case*, certainly, the power of acquisition was general, whereas in the present case it is confined to the purposes of the Act; but in both cases the supply, the price and the marketing of the commodity are necessarily controlled and regulated. It appears to me, therefore, on the authority of the *Wheat Case*, that the acquisitions and seizures of the plaintiff's dried fruits were duly and lawfully made, under the provisions of the *Dried Fruits Act of South Australia*, and that this action must consequently be dismissed.

As this case will probably go further, it is perhaps desirable that I should assess the damages in case it is ultimately established that the plaintiff's right has been infringed. I do so on the basis that the whole of the acquisitions and seizures of the plaintiff's fruit are held to be unlawful. The heads under which damages are claimed are as follows:—(1) Loss of realizable value of fruit seized, £23,353 11s. 5d. The plaintiff, as I understood his counsel, admitted a deduction from the amount claimed of the sum paid under the acquisitions and an adjustment of charges to f.o.b. Port Adelaide, amounting to £15,568 6s. 7d. The defendants did not seriously contest the position that the plaintiff

could have sold his fruit for £23,353 11s. 5d. if his actions had been uncontrolled. Consequently, I should award the difference, £7,785 4s. 10d. (2) Extra storage, extra wages, sundry expenses, loss of business and damage to goodwill. There was a good deal of disturbance to the plaintiff's business by the acquisition and seizures. His premises were used for storage purposes, his business methods and processes were slowed down and rendered more costly. He was put to expense in communicating with his customers and others, and he also lost custom, both among suppliers and purchasers, owing to the action of the defendants. But in connection with the loss of business it must be remembered that after the *Federal Dried Fruits Act* No. 11 of 1928 the plaintiff could only carry on business with a licence of the Federal authority. Further, the capital cost of erecting storage sheds should not be allowed. On the whole, I should award a lump sum of £1,000 for the various losses claimed under the items covered by this second head. (3) Carriers, nil. Expenses under this head were incurred by the plaintiff in anticipation of seizures by the defendants and to put his dried fruits beyond their reach. (4) Liability to purchasers and commission to brokers, £3,360. I see no reason to distrust the plaintiff's evidence as to the items under this head. I should, therefore, award the plaintiff a total sum of £12,145 4s. 10d. damages if it were held that the whole of the seizures of his dried fruits were wrongful and unauthorized. But, as in my opinion the acquisitions and seizures of the plaintiff's dried fruits were authorized by law, the action must be dismissed with costs, except the costs of and occasioned by the adjournment on 20th June 1929, which was due to the unreasonable conduct of the defendants.

From this decision the plaintiff now appealed to the Full Court of the High Court.

Appeal dismissed.

Solicitors for the appellant, Edmunds, Jessop & Ward.

Solicitor for the respondents, A. J. Hannan, Crown Solicitor for South Australia.

1. (1925) A.C. 338, at p. 343.

2. (1927) 40 C.L.R. 1.

3. [1915] HCA 17; (1915) 20 C.L.R. 54.

4. [1915] HCA 17; (1915) 20 C.L.R. 54.

5. (1915) 20 C.L.R., at pp. 67-68.

6. [1920] HCA 77; (1920) 28 C.L.R. 530.

7. [1915] HCA 17; (1915) 20 C.L.R. 54.

8. (1915) 20 C.L.R., at p. 100.

9. (1927) 40 C.L.R. 1.

10. [1915] HCA 17; (1915) 20 C.L.R. 54.

11. (1925) A.C. 338, at p. 343.

12. (1927) 40 C.L.R. 1.

13. [1915] HCA 17; (1915) 20 C.L.R. 54.

14. [1915] HCA 17; (1915) 20 C.L.R. 54.

15. (1915) 20 C.L.R., at pp. 67-68.

16. [1920] HCA 77; (1920) 28 C.L.R. 530.

17. [1915] HCA 17; (1915) 20 C.L.R. 54.

18. (1915) 20 C.L.R., at p. 100.

19. (1927) 40 C.L.R. 1.

20. [1915] HCA 17; (1915) 20 C.L.R. 54.

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