



HIGH COURT CASE STUDY



AUSTRALIAN CONSTITUTION CENTRE

NSW Government compulsorily acquires wheat during World War I

*State of New South Wales v
Commonwealth (1915)*

Facts of the case

In 1914, the price of wheat rose throughout Australia due to drought and the outbreak of World War I.

The NSW Government passed the Wheat Acquisition Act 1914 to acquire wheat at the price of 5 shillings per bushel. In doing so, the Act prevented farmers selling the wheat in other States at a higher price.

In 1915, the Commonwealth Government applied to the Inter-State Commission to stop the NSW Government from compulsorily acquiring wheat. The Federal Labor Government felt that it infringed on the freedom of interstate trade and commerce protected under section 92 of the Constitution.

The Inter-State Commission found the Act invalid. NSW appealed this decision to the High Court.

Issues considered by the court

Did the *Wheat Acquisition Act 1914* contravene the freedom of interstate trade and commerce under section 92 of the Constitution?

Also to be determined was whether the Inter-State Commission was a Court consistent with Chapter III of the Constitution that could determine parties' rights and liabilities.

Decision

The decision was split 4:2, Griffith CJ, Isaacs, Powers and Rich JJ formed the majority. The NSW



Troops departing for World War I
Source: State Library of Victoria,
gift of Miss M. Turnbull

Government was successful on both issues. All judges found that the acquisition of wheat did not contravene the freedom of interstate trade in section 92. This was because of the compulsory acquisition of the wheat by NSW under the Act. The wheat was no longer the farmers to trade.

The majority also held that only a Court established under Chapter III of the Constitution may exercise judicial powers. The Inter-State Commission could not exercise judicial powers as it was an Executive body that performed functions under direction of Ministers of the Federal Government.

Background to the case

Severe droughts as well as floods wreak devastation on Australian farmers and the production of their crops. Overleaf you can see the Murray River during a severe drought in the early 1900s.

The Wheat Case confirmed a State's authority to compulsorily acquire property within the territory



of the State. Griffith CJ interpreted section 92 as protecting every owner's liberty to contract for the transport of goods between States without interference by law. When the owner, however, ceases to own the goods the protection is lost.

Source: State Library of Victoria,
gift of Mr. John Kiely

The NSW Government has authority to control ownership of property, but may not restrict how someone disposes of that property interstate. The *Wheat Acquisition Act 1914* was valid because it only transferred ownership of the wheat in NSW to the State Government.

The wheat in transit outside of NSW was still the property of the farmers and able to be sold. Wheat anywhere within NSW became the property of the NSW Government. Even if contracts for sale had been formed the farmers no longer had ownership to sell the wheat interstate.

In the days after the judgment newspaper headlines like NSW "Wheat Grab" were splashed across front pages around Australia. NSW wheat farmers pledged to fight to be able to sell their wheat interstate.

Did you know?

- The Wheat Case was an appeal from the Inter-State Commission. The Inter-State Commission was led by Albert Piddington, a former High Court Judge who retired before hearing a case.
- The Inter-State Commission was provided for by section 101 of the Constitution. Following the High Court's decision in the Wheat Case, however, the Commission became defunct.

Harvesting and bagging wheat
1909 Source: State Library of
Victoria

