



HIGH COURT OF AUSTRALIA

8 April 2015

COMMUNICATIONS, ELECTRICAL, ELECTRONIC, ENERGY, INFORMATION, POSTAL,
PLUMBING AND ALLIED SERVICES UNION OF AUSTRALIA & ORS v QUEENSLAND
RAIL & ANOR

[2015] HCA 11

Today the High Court unanimously held that Queensland Rail is a trading corporation within the meaning of s 51(xx) of the Constitution, with the consequence that the relations between Queensland Rail and its employees are governed by federal industrial relations law and not Queensland industrial relations law.

Queensland Rail operates as a labour hire company and provides labour used by a related entity, Queensland Rail Limited, in the operation of rail services in Queensland. Queensland Rail was established by the *Queensland Rail Transit Authority Act 2013 (Q)* and, by that Act, Queensland Rail "is not a body corporate" but it has all the powers of an individual to create and be made subject to legal rights and duties, and it may sue and be sued in its own name. The Act also provided for the relations between Queensland Rail and its employees to be governed by Queensland industrial relations law.

The plaintiffs, each an association or organisation of employees, brought a proceeding in the original jurisdiction of the High Court alleging that Queensland Rail and its employees are subject to federal industrial relations law. They alleged that Queensland Rail is a "trading corporation" within the meaning of s 51(xx) of the Constitution and therefore, by the terms of the *Fair Work Act 2009 (Cth)*, an employer subject to the operation of that Act. The plaintiffs also alleged that provisions in the *Queensland Rail Transit Authority Act 2013 (Q)* and in the *Industrial Relations Act 1999 (Q)* which sought to apply Queensland industrial relations law to Queensland Rail and its employees were inconsistent with the *Fair Work Act 2009 (Cth)*, and to that extent were invalid by operation of s 109 of the Constitution.

The High Court unanimously found that Queensland Rail is a trading corporation within the meaning of s 51(xx) of the Constitution and subject to the *Fair Work Act 2009 (Cth)*. It followed that the provisions in the Queensland Acts which sought to apply Queensland industrial relations law to Queensland Rail and its employees were invalid.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*