



# REPORTS OF CASES

DETERMINED IN THE

# HIGH COURT OF AUSTRALIA

1933-1934.

[HIGH COURT OF AUSTRALIA.]

ADAMS . . . . . APPLICANT ;  
PLAINTIFF,

AND

THE HERALD AND WEEKLY TIMES LIMITED RESPONDENT.  
DEFENDANT,

ON APPEAL FROM THE SUPREME COURT OF  
VICTORIA.

*High Court—Appeal—Appeal as of right—Trial of action in Supreme Court of State—Trial by jury—Verdict for defendant—Application to Supreme Court for new trial—New trial refused—Final order—Judiciary Act 1903-1933 (No. 6 of 1903—No. 65 of 1933), sec. 35 (1) (a).*

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1934.

MELBOURNE,  
May 17.

Gavan Duffy  
C.J., Starke,  
Dixon, Evatt  
and McTiernan  
JJ.

An order of the Full Court of the Supreme Court of a State refusing to set aside a judgment for a defendant and grant a new trial is a final order and not an interlocutory order, and leave to appeal to the High Court from such an order is, therefore, unnecessary.

Leave to appeal from the Supreme Court of Victoria (Full Court) refused.

APPLICATION for leave to appeal.

Herbert Adams brought an action in the Supreme Court of Victoria against the Herald and Weekly Times Ltd. for libel, in which he

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claimed £1,000 damages. The action was heard by *Macfarlan J.* and a jury. The trial Judge directed the jury to find a verdict for the defendant on the ground that the article complained of was not capable of bearing the defamatory meaning attributed to it by the plaintiff. The jury accordingly returned a verdict for the defendant. The plaintiff applied to the Full Court of the Supreme Court for a new trial, which was refused.

The plaintiff now applied to the High Court for leave to appeal from that decision.

Notice of the plaintiff's intention to move the Court for leave to appeal was served on the respondent.

*Cussen* (with him *Minogue*), for the applicant. Leave to appeal is sought as it is doubtful whether the order of the Full Court is final or interlocutory.

*Lewis*, for the respondent, referred to *Nolan v. Clifford* (1).

THE COURT delivered the following judgment:—

We refuse the application on the ground that the applicant is entitled to bring an appeal as of right.

*Application refused.*

Solicitor for the applicant, *N. H. Sonenberg*.

Solicitor for the respondent, *Norman A. Miller*.

H. D. W.

(1) (1904) 1 C.L.R. 429.