

at issue was whether or not in these circumstances the condition as to suspension took effect. The Court of Appeal held that the condition referred to a physical or legal prevention, and not to an economic unprofitableness arising from a rise in price: the House of Lords (Lord Finlay, L.C., and Lords Haldane, Dunedin, Atkinson, Shaw, and Wrenbury), have reversed this decision (Lord Finlay dissenting) being of the opinion that, apart from the question of price, the evidence showed a shortage in the supply of the goods in question which hindered the sellers from fulfilling their obligations under the contract in the ordinary course of their business.

APPEAL TO PRIVY COUNCIL—LIMITATION OF RIGHT OF APPEAL TO HIS MAJESTY IN COUNCIL.

*Jones v. Commonwealth Court of Conciliation* (1917) A.C. 528. By the Australian Constitution Act 1900 (63-64 Vict. c. 12) s. 74, it is provided that no appeal shall lie from a decision of the High Court upon any question, however arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and any State or States unless the High Court shall certify that the question is one which ought to be determined by His Majesty in Council. The Commonwealth constituted a Court for the determination of labour disputes, as empowered to do by the above mentioned Act, which Court made an award as to wages and conditions of labour. The High Court discharged a rule *nisi* for a prohibition, holding that there was an industrial dispute extending beyond the limits of any one State, and, therefore, that the Court below had jurisdiction; and the High Court refused to grant a certificate under s. 74, above referred to. In these circumstances the Judicial Committee of the Privy Council (Lords Loreburn, Haldane, Atkinson, Sumner and Parmoor) held that no appeal lay to the King in Council because "the High Court decided that the frontier of the Commonwealth power reaches in this case into the State, and it therefore followed that the State has not exclusive, if any, power in this case. This appears to their Lordships to be a question as to the limits *inter se* of the several powers, *i.e.*, of the Commonwealth and State, and therefore within the terms of s. 74."