

# Nationwide News Pty Ltd v Wills (1992) 177 CLR 1

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## Facts

- Section 229 of the *Industrial Relations Act 1988* (Cth) (**the Act**) made it an offence to bring the Australian Industrial Relations Commission into disrepute.
- Nationwide News (**Nationwide**) was the holding company of the proprietor of "The Australian" newspaper.
- The Australian published on 14 November 1989 an article headed "Advance Australia Fascist" which had been contributed by a freelance journalist, Mr Maxwell Newton, and which contained an attack on the "Arbitration Commission" and its members.
- Nationwide argued that the Act infringed the implied freedom of political communications.
- The Commonwealth argued that the Act was valid under section 51(xxxv) (conciliation and arbitration power), as well as section 51(xxxix) (express incidental power).

## Issues

- Was the Act valid or did it infringe the implied freedom of political communication?

## Held

- The High Court majority (Brennan, Deane, Toohey and Gaudron JJ) held that the Act was within the conciliation and arbitration head of power, but that it infringed the implied freedom of political communication.
- The "doctrine of representative government" is one of the three doctrines found in the Constitution - the other two are federal government and the separation of powers.
- All citizens who are not under a special disability should be able to share the benefits of the right to political discourse. If not, then the citizenry would not be able to participate in the representative government system which Australia has.

## Full Text

The full text is available here:

<http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1992/46.html>

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