

ADMINISTRATIVE LAW

CASE NOTES



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Sample

Associated Provincial Picture Houses Ltd. v Wednesbury

***Corporation* [1948] 1 KB 223**

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Court details: Court of Appeal of England and Wales

Procedural history: The case was on appeal to the Court of Appeal

Facts:

- In 1947 Associated Provincial Picture Houses was granted a licence by the Wednesbury Corporation in Staffordshire to operate a cinema on condition that no children under 15, whether accompanied by an adult or not, were admitted on Sundays.
- Under the *Cinematograph Act 1909*, cinemas could be open from Mondays to Saturdays but not on Sundays, and under a Regulation, the commanding officer of military forces in a neighbourhood could apply to the licensing authority to open a cinema on Sunday
- The *Sunday Entertainments Act 1932* legalized opening cinemas on Sundays by the local licensing authorities "subject to such conditions as the authority may think fit to impose" after a majority vote by the borough.
- Associated Provincial Picture Houses sought a declaration that Wednesbury's condition was unacceptable and outside the power of the Corporation to impose.

Issue:

- What is the standard of unreasonableness of public-body decisions that would make them liable to be quashed on judicial review?

Reasoning / Decision (Commentary):

- The Court held that it could not intervene to overturn the decision of the defendant simply because the court disagreed with it.
- To have the right to intervene, the court would have to conclude that:
 - In making the decision, the defendant took into account factors that ought not to have been taken into account, or
 - The defendant failed to take into account factors that ought to have been taken into account, or
 - The decision was so unreasonable that no reasonable authority would ever consider imposing it.
- The test laid down in this case, in all three limbs, is known as "the Wednesbury test".
- The term "Wednesbury unreasonableness" is used to describe the third limb, of being so unreasonable that no reasonable authority could have decided that way.

- This case or the principle laid down is cited in United Kingdom courts as a reason for courts to be hesitant to interfere with decisions of administrative law bodies.

Ratio:

- Lord Greene MR stated:

“It is true the discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word "unreasonable" in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably." Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington LJ in *Short v Poole Corporation* [1926] Ch. 66, 90, 91 gave the example of the red-haired teacher, dismissed because she had red hair. That is unreasonable in one sense. In another sense it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith; and, in fact, all these things run into one another.

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