

Solicitors for the appellant, *Crick & Carroll*.
 Solicitors for the respondent, *The Crown Solicitor of New*
South Wales.

H. C. OF A.
 1905.

QUAN YICK
 v.
 HINDS.

C. A. W.

[HIGH COURT OF AUSTRALIA.]

DANIEL WILKIE APPELLANT;
 DEFENDANT,
 AND
 DAVID ELLIOT WILKIE RESPONDENT.
 PLAINTIFF,

ON APPEAL FROM THE SUPREME COURT OF
 VICTORIA.

Practice—Appeal book—What Documents to be inserted—Rules of High Court 1903,
Part II., sec. IV., rr. 11, 15.

H. C. OF A.
 1905.

In preparing the appeal book for an appeal from the Supreme Court of a State, the appellant is not required by the Rules of the High Court 1903, Part II., sec. IV., rr. 11, 15, to include all the documentary evidence, but should include such documents as he thinks necessary. The respondent may apply to the Court to have inserted any documents which he thinks are necessary, and which have been omitted.

MELBOURNE,
 March 7.

Griffith C.J.,
 Barton and
 O'Connor JJ.

APPLICATION.

In an action brought by David Elliot Wilkie, against Daniel Wilkie, Alexander McCalla, and John Creuze Hingston Ogier, the nature of which it is not necessary to state as the action was subsequently settled, judgment was given by the Full Court in favour of the plaintiff. (See [1905] V.L.R., 278; 26 A.L.T., 133).

The defendants Daniel Wilkie, and Ogier each appealed to the High Court.

Schutt for the appellant Daniel Wilkie asked the Court whether it was necessary under the Rules of the High Court 1903, Part II., sec. IV., rr. 11, 15 (as amended by Rules of Court Oct. 12th, 1903), for the appellant to set out in the appeal book the whole of the

H. C. OF A. documentary evidence which had been used at the original hearing.
 1905. Rule 7 of the Rules of the Supreme Court of Victoria 1900, Or.
 ——— LVIII., requires the contents of the appeal book to be settled by
 WILKIE the Judge who heard the case. There is no such rule of this
 v. Court.
 WILKIE.
 ———

GRIFFITH C.J. The words "all such documents as are required for the hearing of the appeal," in r. 11, are intended to meet the case. *Primâ facie* the documents which were before the Court from which the appeal is brought should be before this Court. On an appeal to the Privy Council those documents only which are thought material are sent to that tribunal, and they have occasionally asked for other documents. We think the appellant should include in the appeal book those documents which he thinks necessary. If the respondent thinks others are necessary, he may apply to have them inserted. The insertion is only a question of costs. Irrelevant matter should not be included in the appeal book. Thus an appeal to the Supreme Court of the State might involve questions both of law and of fact, requiring many voluminous documents to be set out in the appeal book for that Court, and there might be an appeal to this Court from the decision of the State Court on a pure question of law, the determination of which might require a few only of those documents to be considered. In such a case those documents only should be included which are essential for determining the question as to which the appeal to this Court is brought.

Solicitors for appellant, *Snowball & Kaufmann.*

B. L.