

H. C. OF A.  
1905.

WESTERN  
AUSTRALIAN  
AMALGAM-  
ATED SOCIETY  
OF RAILWAY  
EMPLOYES  
UNION OF  
WORKERS  
v.

COMMISSIONER  
OF RAILWAYS  
FOR WESTERN  
AUSTRALIA.

matter determined by the Court of Arbitration was in part at least a preliminary matter of fact. If it was purely a matter of fact clearly no appeal lies. If it was a mixed question of fact and law it is very doubtful whether an appeal lies. If the Court declined to entertain certain matters upon an erroneous view of the law, possibly mandamus will lie, but the time for determining that question has not arrived. It is, we think, extremely im- probable that the Court has come, or will come, to the conclusion, as a matter of law, that an agreement between the Commissioner of Railways and a small body of employ  s is conclusive evidence that there is no dispute between the Commissioner of Railways and the whole body of employ  s. If the Court does so decide, then it will be time enough to consider whether the Supreme Court can interfere. At present we see no reason to grant special leave to appeal.

*Special leave to appeal refused.*

Solicitors, *Norman K. Ewing & Co.*, Perth.

B. L.

[HIGH COURT OF AUSTRALIA.]

BERTOLINI . . . . . APPELLANT;  
PLAINTIFF,  
  
AND  
GIANINI . . . . . RESPONDENT.  
DEFENDANT,

H. C. OF A.  
1905.

ON APPEAL FROM THE SUPREME COURT OF  
WESTERN AUSTRALIA (McMILLAN J.)

PERTH,  
Oct. 12, 13.

The case turned solely on questions of fact.  
The judgment of the Supreme Court of Western Australia (17th April, 1905), was affirmed.

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

*Appeal dismissed with costs.*

Solicitors, for appellant, *Harney & Harney.*  
Solicitors, for respondent, *Smith & Lavan.*

H. E. M.