

H. C. OF A.
1906.
THE BALMAIN
NEW FERRY
CO. LTD.
v.
ROBERTSON.
O'Connor J.

questioned. The verdict ought therefore to have been entered for the defendants, and this Court must now order accordingly that the verdict for the plaintiff be set aside and judgment be entered for the defendants.

Appeal allowed. Order appealed from discharged. Order absolute to enter verdict for the defendants. Appellants to pay the respondent's costs of the appeal, undertaking to set off such costs against any costs payable by the respondent.

Solicitors for the appellants, *McDonell & Moffitt*.
Solicitor for the respondent, *J. J. Jagelman*.
C. A. W.

[HIGH COURT OF AUSTRALIA.]

PRIOR APPELLANT;
DEFENDANT,
AND
LUDLOW RESPONDENT.
PLAINTIFF,

H. C. OF A.
1906.
SYDNEY,
Oct. 11, 12.
Griffith C.J.,
Barton and
O'Connor JJ.

ON APPEAL FROM THE SUPREME COURT OF
NEW SOUTH WALES.

APPEAL from a decision of *Walker J.*, 20th June 1906.

The case turned wholly on questions of fact.

Appeal dismissed with costs. Decree varied by consent. Appellant to pay respondent's costs of the appeal.

Solicitors, for appellant, *McCoy & McCoy*.
Solicitor, for respondent, *H. R. Way*.
C. A. W.