

the case, which turned upon the particular documents and facts, and the amount in dispute is below £300. Special leave will therefore be refused.

H. C. OF A.
1908.

HUGALL
v.
RAINE.

Special leave refused.

Solicitor, for appellant, *A. J. Mollison* for *J. B. Price*,
Brisbane.

B. L.

Not Foll
*Smith Kline &
French Labs
(Aust) Ltd v
Common-
wealth (1991)*
103 ALR 117

Not Foll
*Smith Kline &
French Labs
(Aust) Ltd v
Common-
wealth (1991)*
66 ALJR 1

Disap
*Smith Kline &
French Labs
(Aust) Ltd v
Common-
wealth (1991)*
173 CLR 194

[HIGH COURT OF AUSTRALIA.]

KAMAROOKA GOLD MINING COMPANY, NO LIABILITY.

AND

KERR AND OTHERS.

Practice—Appeals to High Court—Special leave—Decision of inferior Court of a State—Right of appeal to Supreme Court—Judiciary Act 1903 (No. 6 of 1903), sec. 35—The Constitution (63 & 64 Vict. c. 12), sec. 73.

H. C. OF A.
1908.

SYDNEY,
Aug. 6.

Special leave to appeal to the High Court from a decision of an inferior Court of Victoria refused on the ground that there was a right of appeal to the Supreme Court. The question whether the High Court has jurisdiction under sec. 73 of the Constitution to entertain an appeal direct from such a decision should not be raised in a case in which there is an appeal to another Court.

Griffith C.J.,
Barton,
Isaacs and
Higgins JJ.

APPLICATION for special leave to appeal from a decision of Judge *Box* in the Court of Mines, Victoria, rescinding a previous order made by himself for the winding up of the applicant company.

The applicants were the company and the directors.

H. C. OF A.
1908.
KAMAROOKA
GOLD MINING
Co. No
LIABILITY
v.
KERR.

D. G. Ferguson, for the applicants. An appeal lies from the decision to a Judge of the Court of Mines, but, as the applicants intend to appeal to this Court if the Supreme Court should decide against them, they now apply for special leave in order to save the expense of intermediate appeals. This is a Court from which an appeal lay to the Queen in Council at the establishment of the Commonwealth within the meaning of sec. 35 of the *Judiciary Act* 1903 and sec. 73 of the Constitution. Appeal there includes appeal by special leave. [He referred to *Parkin v. James* (1).]

The judgment of the Court was delivered by

GRIFFITH C.J. In that case the only question was whether a Supreme Court Judge was such a Court. This application raises the difficult and important question whether sec. 73 of the Constitution includes Courts from which an appeal only lies to the Privy Council by special leave. If there were no appeal to any other Court, and by no other means could justice be done, then it might be a matter for serious discussion whether we could grant special leave, but as the applicants have an appeal to the Supreme Court, and can, if necessary, appeal from that Court to this Court, we do not think that this is a case in which special leave should be granted in order to raise it.

Special leave refused.

Solicitors, for the applicant, *J. S. Thom Bros. & Co.*

C. A. W.

(1) 2 C.L.R., 315, at p. 332.