

## [HIGH COURT OF AUSTRALIA.]

REGINALD MITCHELL . . . APPELLANT;

AND

BERNARD JOSEPH BROWN . . . RESPONDENT.

ON APPEAL FROM THE SUPREME COURT OF  
NEW SOUTH WALES.

H. C. OF A. APPEAL, by the plaintiff, by special leave, from the decision of the  
 1909. Supreme Court: *Mitchell v. Brown* (1), where the facts are  
 stated. A motion was taken out by the defendant to rescind the  
 Dec. 14, 16. special leave.

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

The defendant was tenant to the plaintiff of a house under a lease purporting to be made under the *Landlord and Tenant Act* 1899, No. 18. During the currency of the lease the house was destroyed by fire. The lease contained a covenant by the defendant "to leave the premises in good repair reasonable wear and tear excepted." The defendant refused to rebuild the house, and the plaintiff sued him for the price, and obtained a verdict. This verdict was set aside by the Supreme Court and a verdict entered for the defendant. The question in dispute was the construction of the above-mentioned covenant as read in conjunction with the provisions of the *Landlord and Tenant Act*.

*Loxton* and *Hammond*, for the appellant.

*Flannery*, for the respondent.

THE COURT held that no important point of law was involved in the appeal, as the decision of the Court would only apply to

(1) 9 S.R. (N.S.W.), 539; 26 W.N. (N.S.W.), 104.

the construction of the particular document in question in this case. The special leave was therefore rescinded, and the appeal dismissed with costs.

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MITCHELL  
v.  
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*Appeal dismissed.*

Solicitors, for the appellant, *Hooke & Mein*, Dungog, by *Bowman & Mackenzie*.

Solicitors, for the respondent, *Logan & Carlton*, West Maitland, by *Sly & Russell*.

C. E. W.

Appl S'side  
Action Group  
against Prop  
Rosedale  
Dump v BCC  
(1992) 76  
LGRA 402

Foll Propend  
Finance Pty  
Ltd v Aust  
Federal Police  
Commissioner  
(1994) 27  
ATR 584

Appl  
Eicham v  
Comm of Police  
(2001) 53  
NSWLR 7

[HIGH COURT OF AUSTRALIA.]

THE COMMONWEALTH AND THE POST-  
MASTER-GENERAL . . . . . } PLAINTIFFS;

AND

THE PROGRESS ADVERTISING AND PRESS  
AGENCY COMPANY PROPRIETARY  
LIMITED . . . . . } DEFENDANTS.

*Post and Telegraph Act 1901 (No. 12 of 1901), sec. 97—Telephone—Regulations—*  
*Prohibition of publication of telephone lists.*

H. C. OF A.  
1910.

MELBOURNE,

June 1, 6.

Griffith C.J.,  
O'Connor,  
Isaacs and  
Higgins JJ.

Regulation 126A of the Telephone Regulations (Statutory Rules 1908, No. 87), imposes a penalty on any person who, without the authority of the Postmaster-General or of the Deputy Postmaster-General of a State, prints, publishes or circulates, or authorizes the printing, publishing, or circulation of, any list of all or any of the subscribers connected with any telephone exchange, and provides that all lists published in contravention of the Regulation shall be forfeited to the Postmaster-General and shall on demand in writing be delivered up to him.

*Held*, that the Regulation is not authorized by sec. 97 (*v*) of the *Post and Telegraph Act 1901* and is *ultra vires* the Governor-General.

*Held*, also, that the Act confers no exclusive right on the Postmaster-General to print or publish such lists.