

H. C. OF A.
1912.

If the doctrine of *contra proferentem* be applied it tells in this particular against the respondents.

AUS-
TRALIAN
WIDOWS'
FUND
LIFE ASSUR-
ANCE
SOCIETY
LTD.
v.
NATIONAL
MUTUAL
LIFE
ASSOCIATION
OF AUS-
TRALASIA
LTD.
Isaacs J.

Appeal dismissed with costs.

Solicitors, for the appellants, *Eggleston & Eggleston*.
Solicitors, for the respondents, *Madden & Butler*.

B. L.

[HIGH COURT OF AUSTRALIA.]

JOSKE APPELLANT;
INFORMANT,

AND

STRUTT RESPONDENT.
DEFENDANT.

ON APPEAL FROM THE SUPREME COURT OF
VICTORIA.

H. C. OF A.
1912.

Dentist—Person “recorded” by the Dental Board—Use of words implying that he is practising dentistry—Dentists Act 1898 (Vict.) (No. 1595), sec. 7—Dentists Act 1910 (Vict.) (No. 2257), sec. 13.

MELBOURNE,
March 14.

Griffith C.J.,
Barton and
Isaacs JJ.

Special leave to appeal from the decision of the Supreme Court: *Joske v. Strutt*, (1912) V.L.R., 118; 33 A.L.T., 189, refused.

APPLICATION for special leave to appeal from the Supreme Court of Victoria.

Oswald John Strutt, being a person whose name was recorded by the Dental Board of Victoria pursuant to sec. 13 of the *Dentists Act* 1910, was charged at the Court of Petty Sessions at

Brunswick for that he, not being a legally qualified medical practitioner nor a person registered under the *Dentists Act* 1887, nor under the *Medical Act* 1890, Part II., nor under the *Dentists Act* 1898, nor under the *Dentists Act* 1910, did on 15th July 1911 have exhibited at his place of business at Sydney Road, Moreland, words—to wit, “Dentistry,” “Painless Dentistry,” “Moreland Dentistry,” “Artificial Teeth,” “Crown and Bridge Work,” “Gold Fillings,” “All Operations Absolutely Painless,”—tending to the belief that he was carrying on the practice of dentistry. The evidence showed that the words mentioned in the information were displayed in large letters on the defendant’s place of business and that there was also displayed a brass plate on which were the words “Recorded by the Dental Board of Victoria.” The justices having convicted him of the offence charged, he obtained an order *nisi* to review the decision on the grounds (*inter alia*) that the information did not disclose any offence, and that the acts of the defendant alleged to have constituted the offence were authorized by the *Dentists Act* 1910. On the return of the order it was referred to the Full Court, who made the order absolute: *Joske v. Strutt* (1).

H. C. OF A.
1912.
—
JOSKE
v.
STRUTT.
—

The informant now applied for special leave to appeal from the decision of the Full Court.

Duffy K.C. (with him *S. R. Lewis*), for the informant. Under the decision of this Court in *Stiggants v. Joske* (2), the prohibition in sec. 7 of the *Dentists Act* 1898 against the use by an unregistered person of words tending to the belief that he is practising dentistry is, by sec. 13 of the *Dentists Act* 1910, only removed so far as to permit a person whose name is recorded by the Dental Board to use such words in connection with the phrase “Recorded by the Dental Board of Victoria” in order to show as what he is recorded. If a person who is recorded uses such words in any other way he is guilty of an offence.

[GRIFFITH C.J.—The information does not charge that offence. To do so it should be in some such form as this—that the defendant, being a person whose name was recorded by the Dental Board, used words unconnected with the words “Recorded by the

(1) (1912) V.L.R., 118; 33 A.L.T., 189.

(2) 12 C.L.R., 549.

H. C. OF A. Dental Board of Victoria " tending to the belief that he was practising dentistry. Then the question now sought to be argued would be raised. As the information stands it is a complete answer to say that the defendant is recorded under sec. 13 of the Act of 1910.]

1912.
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 JOSKE
 v.
 STRUTT.
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The information in its present form is good because sec. 7 of the Act of 1898 is still operative, except so far as it is interfered with by sec. 13 of the Act of 1910. *Hood J.* misunderstood the judgment of this Court in *Stiggants v. Joske* (1). He thought that it decided that a person recorded under sec. 13 could use any words indicating that he was practising dentistry, and use them in any manner he pleased, provided they did not imply that he was registered.

[GRIFFITH C.J.—We did not decide that. We held that he might use such words in order to explain what it was for which he was recorded.]

On the information as it stands it was a question of fact for the justices whether the defendant did what he was not allowed to do under the decision in *Stiggants v. Joske* (1).

GRIFFITH C.J. The point desired to be raised is a very interesting, and it may be a very important, one. But that question does not arise so plainly upon the facts that it would be desirable to decide it in this case.

Leave to appeal refused.

Solicitor, for the appellant, *E. Joske*.

B. L.

(1) 12 C.L.R., 549.