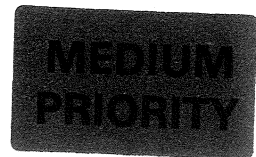


25/11



IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

1763

AP No. 30/94

IN THE MATTER of an appeal under s144 of the Summary Proceedings Act 1957

BETWEEN STEPHEN BRUCE DOWNES

Appellant

AND STEPHEN GRAHAM WARING

Respondent

Hearing: 16 November 1994

Counsel: M P Reed for Appellant
No appearance for Respondent

Decision: 16 November 1994

ORAL DECISION OF McGECHAN J

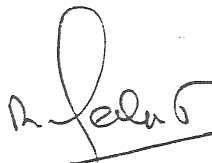
Application for leave to appeal to the Court of Appeal pursuant to s144. Desirably the application should be before the Chief Justice whose decision is involved, however, that could result in delay and I will presume to deal with it myself.

I had the benefit of submissions from counsel for the intending appellant. I was informed that the respondent was in the Courtroom but did not seek to participate.

There are some genuine questions of law involved. In saying that I do not in any way intend to signal any doubt as to the conclusions the learned Chief Justice reached, but there are matters on which different views could be taken. There are associated issues of general or public importance as to the application or otherwise

of the Act to activities which could be regarded, on one view, as fringe dealing. It is consumer legislation, in this aspect, which accordingly has wider implications. I gather in this Court it was something of a test case, and there are no questions of penalty or prejudice which arise if leave be given.

Leave is given accordingly.



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R A McGechan J

Solicitors:

Izard Weston, Wellington for Appellant