

IMPORTANT LEGAL DECISIONS GIVEN DURING THE YEAR 1909-10 UNDER THE
 FACTORIES ACT, THE SHOPS AND OFFICES ACT, THE SERVANTS' REGISTRY
 OFFICES ACT, AND THE EMPLOYERS' LIABILITY ACT.

APPLICATION FOR RECOVERY OF SUBSCRIPTIONS DUE BY MEMBER OF AN INDUSTRIAL UNION.

At the Magistrate's Court at Foxton, the Manawatu Flax-mills Employees' Union sued a member of the union to recover the sum of 13s. 6d. for contributions. The secretary of the union said defendant was a member of his union, and in July, 1907, had applied for clearance, as he was leaving the district. This was granted. Defendant returned to the district in May, 1908, and commenced to work at a flax-mill. Defendant was again put on the list of paying members of the union. This course had been followed in several other cases. The witness considered that the clearance granted was only for the time that defendant was away from the district or away from the industry. The Stipendiary Magistrate said there was nothing in the rules of the union that allowed members who left the industry for a time and then returned to be again put on the membership roll without again making application. Judgment was given for defendant, with costs. The secretary of the union asked for leave to appeal, as he understood this question had been fought before with a different result. The Magistrate said it was not necessary to get his permission. Where it was a point of law there was no need to get leave to appeal.

LIABILITIES OF SERVANTS.

In the Magistrate's Court, Dunedin, on the 25th May, 1909, a mistress sued a young woman for 12s. 6d. for a breach of an agreement to enter plaintiff's service as a domestic servant.

The Magistrate, in giving judgment, said the sooner servant-girls realised their legal position the better it would be for them. If they took a position, they should fulfil it; if not, they would be liable for damages the same as employers would be. Judgment was for plaintiff for the full amount and costs.

DEFINITION OF A FISHMONGER'S SHOP.

Decision by Mr. H. Y. Widdowson, S.M., Dunedin, 21st May, 1909.

The defendant is charged with having failed to close his shop at the hour of 1 o'clock in the afternoon of the statutory closing-day—to wit, the 12th day of May, 1909—for the remainder of the day, contrary to the provisions of the Shops and Offices Act, 1908. The defendant carries on in the shop referred to the business of a fishmonger, and it is admitted that he did not close such shop, and that during that week (but not on the half-day in question) he sold poultry, rabbits, and mutton-birds, in addition to fish. Section 18, (a), (i), of the Act exempts persons exclusively carrying on any one or more of the businesses therein mentioned—amongst them being that of a fishmonger—from closing on the statutory half-holiday, and subsection (ii) contains, for the purposes of this section, a definition of a fishmonger, &c. A "fishmonger" is defined as meaning "a person whose business is to sell fish or shellfish." It is contended for the defence that the effect of this definition is not to narrow down the exemption to a person whose business is to sell fish or shellfish only, but that if, in addition, he sells poultry, rabbits, or mutton-birds, which, it is said, might be ordinarily and commonly kept and sold in the business of a fishmonger as well as fish, in the absence of the definition contained in subsection (ii), he need not close his shop on the weekly half-holiday. I cannot accede to the proposition. I must also say that I am not satisfied that it has been proved that, apart from the Act altogether, the sale of poultry and rabbits would ordinarily and commonly belong to the business of a fishmonger. That, however, does not affect the matter. I am of opinion that the effect of subsections (i) and (ii) of section 18, according to the true and reasonable construction of the words, is, with regard to fishmongers, that only those whose business it is to exclusively sell fish or shellfish are entitled to the exemption from closing their shops on the weekly half-holiday. To hold otherwise would, it seems to me, be to frustrate the intention of the Act. The defendant will therefore be convicted, and fined £1 with costs.

WHAT IS A FLORIST'S STOCK?—A TEST CASE.

On the 5th May, 1909, a fruiterer and florist was charged at the Police Court, Dunedin, with having failed to close his shop for the statutory half-holiday on the week ended 24th April. Mr. Le Cren (Inspector of Factories) prosecuted, and Mr. Stephens appeared for defendant.

The contention of the prosecution was that as a fruiterer and florist defendant was exempt, but that he stocked and sold certain other articles—seeds, flower-pots, crushed bone for fowls, &c.—which removed the exemption.

Mr. Widdowson, S.M., gave his judgment on the 6th May. He said that defendant was a fruiterer and florist, and claimed, in his business as florist, to sell certain articles which, the Inspector asserted, precluded him from keeping open on the statutory half-holiday. The question was whether the defendant was exclusively carrying on the business of a fruiterer and exclusively that of a florist, the articles complained of coming within the business of a florist. It had been given in evidence, that these articles were commonly and ordinarily stocked and sold by florists in Dunedin and other parts of the Dominion, and he had no reason to disbelieve the evidence of the witnesses for the defence, and in the absence of evidence to the contrary was bound to hold that it was true. The Inspector invited him to take as the meaning of "florist" that given by the dictionary. But he could not do that, for the dictionary meaning was too restricted. A decision had been given by the late Chief Justice Prendergast